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Bengal Legislative Council

Thirty-ninth Session, 1932

29th to 31st August and 1st and 2nd September, 1932

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GOVERNOR OF BENGAL.

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2. Land Acquisition.
3. Excluded Areas.
4. Jails.
5. Legislative.

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2. Immigration.
3. Jurisdiction.
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2. Public Works.

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2. Registration.

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The Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh.

DEPUTY PRESIDENT.

MR. RAZAUR RAHMAN KHAN, B.L.

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2. Khan Bahadur Maulvi AZIZUL HAQUE.
3. Mr. W. H. THOMPSON.
4. Mr. SYAMAPROSAD MOOKERJEE, Bar.-at-Law.

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Assistant Secretary to the Council—Vacant.

BENGAL LEGISLATIVE COUNCIL

ALPHABETICAL LIST OF MEMBERS.

A

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur. [Dacca City (Muhammadan).]
Ali, Maulvi Hassan. [Dinajpur (Muhammadan).]
Ali, Maulvi Syed Nausher. [Jessore South (Muhammadan).]
Ali, Mr. Altaf. [Bogra (Muhammadan).]
Armstrong, Mr. W. L. [Presidency and Burdwan (European).]
Austin, Mr. J. M. (Bengal Chamber of Commerce.)

B

Baksh, Maulvi Shaikh Rahim. [Hooghly *cum* Howrah Municipal (Muhammadan).]
Baksh, Maulvi Syed Majid. [Jessore North (Muhammadan).]
Bal, Babu Lalit Kumar. [Bakarganj South (Non-Muhammadan).]
Bal, Rai Sahib Sarat Chandra. [Faridpur South (Non-Muhammadan).]
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Banerji, Mr. P. [24-Parganas Rural South (Non-Muhammadan).]
Banerji, Rai Bahadur Keshub Chandra. [Dacca Rural (Non-Muhammadan).]
Bannerjee, Babu Jitendralal. [Birbhum (Non-Muhammadan).]
Barma, Rai Sahib Panchanan, M.B.E. [Rangpur West (Non-Muhammadan).]
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Burn, Mr. H. H. (Bengal Chamber of Commerce.)

C

Chatterjee, Mr. B. C., Bar.-at-Law. [Bakarganj North (Non-Muhammadan).]
Chaudhuri, Babu Kishori Mohan. [Rajshahi (Non-Muhammadan).]
Chaudhuri, Babu Siddheswar. (Expert, Nominated.)

Chaudhuri, Dr. Jogendra Chandra. [Bogra *cum* Pabna (Non-Muhammadan).]
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Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman. (Nominated Non-official.)
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Choudhury, Maulvi Nural Absar. [Chittagong North (Muhammadan).]
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Cohen, Mr. D. J. (Nominated Non-official.)
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Cooper, Mr. C. G. (Indian Jute Mills Association.)

D

Das, Rai Bahadur Kamini Kumar, M.B.E. [Chittagong (Non-Muhammadan).]
Das, Rai Bahadur Satyendra Kumar. [Dacca City (Non-Muhammadan).]
Dutt, Rai Bahadur Dr. Haridhan. [Calcutta Central (Non-Muhammadan).]

E

Eusufji, Maulvi Nur Rahman Khan. [Mymensingh South-West (Muhammadan).]

F

Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur. [Minister.] [Tippera South (Muhammadan).]
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Fazlullah, Maulvi Muhammad. [Noakhali West (Muhammadan).]
Forrester, Mr. J. Campbell. [Presidency and Burdwan (European).]

G

Gangali, Rai Bahadur Susil Kumar. (Nominated Official.)
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Ghose, Rai Bahadur Sasonka Comar, C.I.E. (Dacca University.)
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Guha, Mr. P. N. (Nominated Non-official.)
Gupta, Mr. J. N., C.I.E., M.B.E. [Bankura West (Non-Muhammadan).]

H

Hakim, Maulvi Abdul. [Mymensingh Central (Muhammadan).]
Haque, Khan Bahadur Maulvi Azizul. [Nadia (Muhammadan).]
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Hossain, Maulvi Muhammad. [Bakarganj North (Muhammadan).]
Huq, Mr. A. K. Fazl-ul. [Bakarganj West (Muhammadan).]
Hussain, Maulvi Latafat. (Nominated Non-official.)

K

Karim, Maulvi Abdul. [Burdwan Division South (Muhammadan).]
Kasem, Maulvi Abul. [Burdwan Division North (Muhammadan).]
Kerr, Mr. W. J. (Nominated Official.)
Khan, Maulvi Amin-uz-Zaman. (Nominated Official.)
Khan, Khan Bahadur Maulvi Muazzam Ali. [Pabna (Muhammadan).]
Khan, Maulvi Tamizuddin. [Faridpur South (Muhammadan).]
*Khan, Mr. Razaur Rahman, B.L. [Dacca East Rural (Muhammadan).]

L

Lal Muhammad, Haji. [Rajshahi South (Muhammadan).]
Law, Mr. Surendra Nath. (Bengal National Chamber of Commerce.)
Leeson, Mr. G. W. (Bengal Chamber of Commerce.)

M

Maguire, Mr. L. T. (Anglo-Indian.)
Maiti, Mr. R. [Midnapore South (Non-Muhammadan).]

* Deputy President, Bengal Legislative Council.

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Mitter, the Hon'ble Sir Provash Chunder, KT., C.I.E. (Member, Executive Council.)
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Mullick, Mr. Mukunda Behary. (Nominated Non-official.)

N

Nag, Babu Suk Lal. [Khulna (Non-Muhammadan).]
Nag, Reverend B. A. (Nominated Non-official.)
Nandy, Maharaja Sris Chandra, of Kasimbazar. (Bengal National Chamber of Commerce.)
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Norton, Mr. H. R. (Calcutta Trades Association.)

O

Ordish, Mr. J. E. [Dacca and Chittagong (European).]

P

Petre, Mr. B. F. (Indian Mining Association.)
Philpot, Mr. H. C. V. (Nominated Official.)
Poddar, Mr. Ananda Mohan. (Bengal Mahajan Sabha.)
Poddar, Seth Hunuman Prosad. [Calcutta West (Non-Muhammadan).]

R

Raheem, Mr. A., C.I.E. [Calcutta North (Muhammadan).]
Rahman, Maulvi Azizur. [Mymensingh North-West (Muhammadan).]
Rahman, Mr. A. F. [Rangpur West (Muhammadan).]
Rahman, Mr. A. F. M. Abdur-. [24-Parganas Rural (Muhammadan).]

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Ray, Babu Nagendra Narayan, B.L. [Rangpur East (Non-Muhammadan).]
Ray, Kumar Shib Shekhareswar. (Rajshahi Landholders.)
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Roy, Babu Satyendra Nath. [24-Parganas Municipal South (Non-Muhammadan).]
Roy, Mr. Saileswar Singh. [Burdwan North (Non-Muhammadan).]
Roy, Mr. Sarat Kumar. (Presidency Landholders.)
Roy, the Hon'ble Mr. Bijoy Prasad Singh. [Minister.] [Burdwan South (Non-Muhammadan).]
Roy Choudhuri, Babu Hem Chandra. [Noakhali (Non-Muhammadan).]

S

Saadatullah, Maulvi Muhammad. [24-Parganas Municipal (Muhammadan).]
Sahana, Babu Satya Kinkar. [Bankura East (Non-Muhammadan).]
Samad, Maulvi Abdus. [Murshidabad (Muhammadan).]
Sarkar, Babu Benod Bihari. (Expert, Nominated.)
Sarker, Rai Sahib Rebati Mohan. (Nominated Non-official.)
Sen, Mr. B. R. (Nominated Official.)
Sen, Mr. Girish Chandra. (Expert, Nominated.)
Sen, Rai Sahib Akshoy Kumar. [Faridpur North (Non-Muhammadan).]
Sen Gupta, Dr. Naresh Chandra. [Mymensingh West (Non-Muhammadan).]
Shah, Maulvi Abdul Hamid. [Mymensingh East (Muhammadan).]
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Stapleton, Mr. H. E. (Nominated Official.)
Suhrawardy, Mr. H. S. [Calcutta South (Muhammadan).]

T

Thomas, Mr. M. P. (Indian Jute Mills Association.)
Thompson, Mr. W. H. (Bengal Chamber of Commerce.)
Townend, Mr. H. P. V. (Nominated Official.)
Twynam, Mr. H. J. (Nominated Official.)

W

Wilkinson, Mr. H. R., C.I.E. (Nominated Official.)
Woodhead, the Hon'ble Mr. J. A., C.I.E. (Member, Executive Council.)
Wordsworth, Mr. W. C. (Bengal Chamber of Commerce.)

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS

(Official Report of the Thirty-ninth Session.)

Volume XXXIX—No. 5.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 29th August, 1932, at 2-30 p.m.

Present:

Mr. President (the Hon'ble Raja SIR MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 110 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Dharmagolas or grain banks in rural areas.

***169. Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state whether it is in the contemplation of Government to start, or encourage the starting of, *dharmagolas* in all rural areas under the direct supervision of either the union boards or the central co-operative banks with a view to make provision for the needy and the poor in years of scarcity and ordinarily to relieve them of the unavoidable necessity of borrowing paddy grains at a very high rate of interest?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state what steps do the Government propose to take for popularising the arrangement?

MINISTER in charge of AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): (*a*) No. There is no specific provision in the Village Self-Government Act to enable union boards to start *dharmagolas*. The Co-operative Department have in the past assisted in the organisation of *dharmagolas* or grain banks on a co-operative basis in those rural areas in which there was a demand. There are at present 43 such banks in the province. Under their bye-laws agricultural credit societies can start grain annexes with the sanction of the Registrar, but very few of these societies, which number about 20,000, have yet proposed to open such annexes. It is not considered that any action on the part of Government with a view to popularising the adoption of these organisations is called for.

(*b*) Does not arise.

Water-hyacinth.

***161. Maulvi SYED OSMAN HAIDER CHAUDHURI:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state what steps are being taken to eradicate water-hyacinth from this province?

(*b*) Will the Hon'ble Minister be pleased to lay on the table a statement showing the names and addresses of the individuals who had devised means to eradicate water-hyacinth and also the nature, result and progress of their experiments?

(*c*) Has the Hon'ble Minister any knowledge of a machine recently designed by a Science student of the Honours Chemistry School of the Dacca University, to destroy water-hyacinth?

(*d*) Has the Hon'ble Minister received any petition from the said student along with papers describing the experimental result of his research on water-hyacinth?

(*e*) If the answer to (*d*) is in the affirmative, will the Hon'ble Minister be pleased to lay on the table copies of the petition and all other papers connected therewith?

(*f*) If the answer to (*c*) is in the affirmative, are the Government considering the desirability of providing adequate facilities to this young student to enable him to carry out his research to a successful completion?

(*g*) If the answer to (*f*) is in the affirmative, will the Hon'ble Minister be pleased to state what facilities the Government propose to provide?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*a*) The member is referred to the answer given to starred question 146 asked

by Rai Sahib Akshoy Kumar Sen at the meeting of the Council held on the 16th March, 1931. The position now is the same as then stated.

(*b*) Government have no information in the matter.

(*c*) and (*d*) No.

(*e*) to (*g*) Do not arise.

Appointment of backward classes.

*162. **Babu AMULYADHAN RAY:** Will the Hon'ble Member in charge of the Appointment Department be pleased to lay on the table a statement showing separately, district by district, and department by department,—

(*i*) how many appointments have been made in Bengal since the issue of the Appointment Department memorandum Nos. 3540-3554A., dated the 28th April, 1931, in every department to which it applies;

(*ii*) how many of the said appointments have been given to the candidates belonging to the backward classes; and

(*iii*) what caste does each of the candidates appointed from the backward classes belong to?

MEMBER in charge of APPOINTMENT DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*i*) and (*ii*) A statement is laid on the table.

(*iii*) The member is referred to the answer to the starred question No. 1 (*b*) at the meeting of the Bengal Legislative Council held on the 1st February, 1932.

Statement referred to in the reply to clauses (i) and (ii) of starred question No. 162, showing the number of appointments made and the number of appointments given to the candidates belonging to the backward classes during the year 1931-32 in the offices and departments to which the Appointment Department Memo. No. 3540-54A., dated the 28th April, 1931, applies.

Offices and Departments.	Number of appointments made.	Number of appointments given to the candidates belonging to the backward classes.
Office of the Commissioner, Burdwan Division ..	3	..
District Office—		
Burdwan	6	..
Birbhum	1	..
Bankura	6	..
Midnapore	10	..
Hooghly	5	..
Howrah	7	2.

Offices and Departments.	Number of appointments made.	Number of appointments given to the candidates belonging to the backward classes.
Commissioner's Office, Rajshahi Division	1	..
District Office—		
Rajshahi	8	..
Dinajpur	2	..
Rangpur	2	..
Jalpaiguri	4	..
Pabna	3	..
Darjeeling	3	2
Dacca	9	..
Mymensingh	12	1
Faridpur	4	..
Bakarganj	8	..
Chittagong	7	..
Tippera	4	..
Noakhali	2	..
Deputy Commissioner's Office, Chittagong Hill Tracts	2	1
Commissioner's Office, Chittagong Division ..	2	..
Commissioner's Office, Presidency Division ..	4	..
District Office—		
24-Parganas	10	..
Nadia	5	..
Murshidabad	3	..
Jessore	6	..
Khulna	3	..
Divisional Forest Office, Kurseong	1	..
L. A. Offices, Calcutta	1	..
District Judges' Offices—		
Rajshahi and Malda	5	..
Khulna	1	..
Nadia	1	..
Pabna and Bogra	4	1
Hooghly	3	..
Jessore	4	1
Dacca	10	..
Murshidabad	4	1
Midnapore	6	1
Burdwan	10	..
Noakhali	3	..
Bankura	3	..
Faridpur	6	..
Birbhum	4	..
Bakarganj	21	4
24-Parganas	13	..
Dinajpur	5	..
Rangpur	2	..
Mymensingh	9	..
Tippera	5	..
Chittagong	7	..
Office of the Administrator-General and Official Trustee, Bengal	2	..
Office of the Municipal Magistrate, Calcutta ..	1	..

Offices and Departments.	Number of appointments made.	Number of appointments given to the candidates belonging to the backward classes.
Office of the Small Cause Court, Calcutta	7	..
Registration Department—		
Burdwan	3	..
Midnapore	4	..
Hooghly	2	1
Howrah	2	..
24-Parganas	3	..
Calcutta	5	..
Nadia	1	..
Murshidabad	2	..
Jessore	2	..
Khulna	1	..
Dacca	4	..
Mymensingh	5	..
Faridpur	2	..
Bakarganj	1	..
Chittagong	2	..
Noakhali	1	..
Dinajpur	2	..
Jalpaiguri	1	..
Rangpur	3	..
Bogra	1	..
Education Department—		
Presidency Division	4	1
Burdwan	2	1
Dacca	2	..
Chittagong	2	..
Office of the Superintendent of Police, Eastern Bengal Railway, Sealdah	1	..
Office of the Superintendent of Police, Mymensingh ..	1	..
Office of the Superintendent of Police, 24-Parganas ..	1	..
Office of the Superintendent of Police, Faridpur ..	1	..
Office of the Superintendent of Police, Howrah ..	1	..
Office of the Deputy Inspector-General, C. I. D. ..	1	..
Civil Surgeons' Offices	3	..
South-Western Circle (Irrigation Department) ..	1	..
Royal Botanic Garden	1	..
Agriculture Department	2	..
Jails (General Department)	7	..
Sub-Jails	1	..
Press and Forms Department	4	..
Public Works Department—		
Presidency Circle	3	..
Eastern Circle	3	..
Northern Circle	3	..
Central Circle	1	..
Office of the C. A. to the Government of Bengal	1	..
Office of the E. T. to Government	2	..

Babu AMULYADHAN RAY: Will the Hon'ble Member in charge of the Appointment Department be pleased to say whether he is in a position to tell us that the candidates appointed from the backward classes to the ministerial appointments really come under the classification of "backward classes"?

The Hon'ble Mr. R. N. REID: I shall require notice of that question in order to verify the point raised by the hon'ble member.

Bengal Government Press.

***163. Dr. NARESH CHANDRA SEN GUPTA:** (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to state whether it is a fact that whenever any reduction in the staff was effected in the Bengal Government Press, only the piece-workers of the press were reduced and the supervising staff left unaffected?

(*b*) Is it a fact that the piece employees of the Bengal Government Press are debarred from enjoying the privileges of leave, holidays, etc., like that of the salaried staff?

(*c*) Is it a fact that the piece employees are praying for the benefit of leave, holidays, etc., as are enjoyed by the salaried staff of the said press?

(*d*) Is it a fact that their prayer for leave, holidays, etc., has not been granted on the plea of increased overhead charges?

(*e*) If the answers to (*a*) to (*d*) are in the affirmative, will the Hon'ble Member be pleased to state the reasons of the increased overhead charges in the Bengal Government Press?

(*f*) Is it a fact that the staff of the Bengal Government Press were and are as follows:—

	1910.	1922-23.	1926-27.	1931-32.
Superintendent	1	1	1	1
Deputy Superintendents	1	3	3	3
Overseers	2	5	5	5
Supervising staff including Readers, Clerks, and Computors	102	122	210	322
Piece-workers	842	578	361	302

(*g*) Is the Hon'ble Member aware that the Government of India Press, Calcutta, consists of 722 piece-hands supervised by 1 Manager, 1 Assistant Manager, 3 Overseers and 282 supervising staff?

(*h*) Is it a fact that the increased overhead charges and the heavy expenditure in the Bengal Government Press are mainly due to the increase in the officers such as Deputy Superintendents, Overseers and supervising staff?

(*i*) If the replies to (*f*) to (*h*) are in the affirmative, will the Hon'ble Member be pleased to state the reasons of this increase in the officers and supervising staff?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) No.

(*b*) No, but they are governed by a separate set of rules.

(*c*) No.

(*d*) and (*e*) Do not arise.

(*f*), (*g*), (*h*) No.

(*i*) Does not arise.

Fishery.

*164. **Haji BADI AHMED CHOWDHURY:** (*a*) Is the Hon'ble Minister in charge of the Agriculture and Industries Department aware that Government met with failure in fishery industries for want of a Fishery Technologist?

(*b*) Is it a fact that—

(*i*) the province of Bengal has many fish-productive places; and

(*ii*) the people thereof eat fresh fish and dry fish much more than any other province?

(*c*) Are the Government considering the desirability of appointing a Fishery Technologist?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*a*) The Bengal Retrenchment Committee advised the abolition of the Fisheries Department on the ground that the department, as then constituted, was without value; but there is nothing on record to show that the department was a failure for want of a Fishery Technologist.

(*b*) (*i*) Yes.

(*ii*) Admittedly the people of Bengal eat large quantities of fish, but no statistical comparison with other provinces is available.

(*c*) No.

Khan Bahadur Maulvi AZIZUL HAQUE: With reference to the answer to (*b*) (*ii*) that the Bengalis eat a large quantity of fish will the Hon'ble Minister be pleased to state who gave that information?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: That is an admitted fact.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Minister be pleased to state whether Government will be prepared to consider any scheme which may be submitted by non-official experts?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: We have a scheme ready but the present financial stringency does not permit us to give effect to it.

Second Additional Jail, Dum Dum.

***165. Maulvi HASSAN ALI:** (*a*) Is the Hon'ble Member in charge of the Political (Jails) Department aware—

(*i*) that in the Dum Dum Second Additional Jail (Cantonment Jail) about 60 or 70 prisoners remain unfed daily: if so, what is the reason for this?

(*ii*) that the prisoners there are kept awake up to 2 o'clock in the morning to take their evening meal; and

(*iii*) that frequent hunger-strikes are taken resort to by the prisoners for their grievances?

(*b*) Is it a fact that the prisoners there are punished with night handcuffs, cross-bars and bar-fetters when any kits are lost?

(*c*) Will the Hon'ble Member be pleased to state—

(*i*) what is the number of the hospital accommodation; and

(*ii*) what is the present number of patients there?

(*d*) Is it a fact that recently 150 prisoners were kept in the lock-up for 35 hours without any food as they refused to vacate their ward to make room for patients?

(*e*) Is it a fact that there was no accommodation in other wards for these prisoners?

(*f*) Is it a fact that the patients were kept lying on blankets only and the patient having 103° temperature at night was discharged from the hospital in the morning being told that he had come round?

(*g*) What is the present number of prisoners at the jail?

(*h*) How many of them are at present attacked with—

(*i*) malignant malaria and cerebral malaria;

(*ii*) with various other diseases; and

(*iii*) how many on a daily average fall victim to fever?

(*i*) Is it a fact that a jailor has been appointed as the Superintendent of the Jail?

(*j*) Is it a fact that prisoners Babu Haripada Chatterjee of Nadia, Babu Profulla Sen and eight others, Mr. Bijoy Ray and eight others from Jessore were transferred under punishment? If so, why?

(*k*) Is it a fact that no fish but meat only fortnightly is supplied to the prisoners?

(*l*) Is it a fact that the prisoners are not allowed to use any hand-fans even though they are made by the prisoners themselves with papers or rags of cloth?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) and (*ii*) No.

(*iii*) There were only two hunger-strikes in the jail. In the first case only one prisoner refused to take food as a protest against punishment awarded to him for losing jail kit, while on the second occasion three prisoners only declined to take food on the plea of refusal by the jail authorities of certain concessions asked for by other prisoners which were not permissible under the jail rules.

(*b*) Prisoners were punished by an order to wear gunny clothing for losing their prison kit; in a very few cases they were punished by night handcuffs. In some cases when prisoners stubbornly refused to wear gunny clothing, thereby setting a bad example to other prisoners, they were punished with cross-bars or bar-fetters.

(*c*) (*i*) 57.

(*ii*) 49 on 10th August, 1932.

(*d*) and (*e*) Owing to the increased number of patients in the jail hospital, it was considered necessary to convert a ward into a hospital for the accommodation of surplus patients. The prisoners who were

accommodated in that ward were asked to vacate it and to remove themselves to another ward where there was sufficient accommodation for them, but they refused to go there. The prisoners were told that if they did not move they would be treated as patients and would be given observation diet; they still refused to move and were locked up that night in the ward and were given medical observation diet. The next morning they voluntarily vacated the place.

(*f*) No.

(*g*) 574 on 11th August, 1932.

(*h*) (*i*) None at present.

(*ii*) 49.

(*iii*) 4·8.

(*i*) Yes.

(*j*) Yes. As they incited other prisoners to defy jail rules and start hunger-striking.

(*k*) Fish or meat is issued weekly to the prisoners according to their choice.

(*l*) Yes. This is not permissible under the rules of the Jail Code.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to say with reference to answer (*a*) (*iii*) the duration of the two hunger-strikes?

The Hon'ble Sir PROVASH CHUNDER MITTER: I do not remember but not very long.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state with reference to answer (*b*) how many were punished and how many were punished with night handcuffs?

The Hon'ble Sir PROVASH CHUNDER MITTER: I should like to have notice of the question.

Mr. NARENDRA KUMAR BASU: With reference to answers (*d*) and (*e*) will the Hon'ble Member be pleased to state the total number of prisoners in the hospital that night?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have got no information at the present moment. I should like to have notice of the question.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state for how long in the aggregate these men were kept locked up in the ward?

The Hon'ble Sir PROVASH CHUNDER MITTER: So far as I gather for one night only but if the hon'ble member wants definite information I should like to have notice.

Mr. NARENDRA KUMAR BASU: From the answer it appears that they were kept in the lock-up for 35 hours but there was no mention of any time in the answer. May I ask for that information?

The Hon'ble Sir PROVASH CHUNDER MITTER: Very possibly we could not get accurate information. However I should like to have notice of the question.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state with reference to (*a*) (*i*) and (*ii*) if inquiries were made from the prisoners in the jail?

The Hon'ble Sir PROVASH CHUNDER MITTER: I do not think any inquiry is necessary, because that would be patent from the books.

Mr. SHANTI SHEKHARESWAR RAY: With reference to (*d*) will the Hon'ble Member be pleased to tell us what is the medical observation diet?

The Hon'ble Sir PROVASH CHUNDER MITTER: I do not know. It depends on the special condition of a prisoner.

Maulvi HASSAN ALI: Will the Hon'ble Member be pleased to state with reference to (*h*) (*iii*) what were the concessions asked for?

The Hon'ble Sir PROVASH CHUNDER MITTER: We have no information at the moment. I ask for notice.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if all the prisoners belonging to the *bhadralok* class have been convicted of offences in connection with the civil disobedience movement?

The Hon'ble Sir PROVASH CHUNDER MITTER: Very possibly but I have no definite information.

Depressed class sub-inspectors of police.

*166. **Babu LALIT KUMAR BAL:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to lay on the table a statement showing since 1921—

(*i*) how many sub-inspectors of police have been appointed;

(*ii*) the number taken from the Hindus and Muhammadans respectively; and

(*iii*) the number taken from the depressed classes?

(*b*) Have any sub-inspectors been appointed from the qualified candidates belonging to the Namasudra community and other depressed classes of the Bakarganj district? If so, how many?

(*c*) Is there any possibility of recruitment of sub-inspectors this year?

(*d*) If the answer to (*c*) is in the affirmative, what steps do the authorities intend to take to preserve the interests of the depressed classes in the matter of such recruitment?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) A statement containing the information desired is laid on the table.

(*b*) No.

(*c*) Yes.

(*d*) The local officers have instructions to consider the cases of eligible candidates from the depressed classes when recruiting probationary sub-inspectors.

Statement referred to in the reply to clause (a) of starred question No. 166, showing the number of sub-inspectors recruited from 1921 to 1932 and the number recruited from the depressed classes.

Year.	Number of sub-inspectors directly recruited.				Number of sub-inspectors promoted.			
	Hindus (including depressed classes).	Muhammadans.	Depressed classes	Total.	Hindus (including depressed classes).	Muhammadans.	Depressed classes.	Total.
1921 ..	5	5	1 Kalu of Bankura ..	10	8	2	....	10
1922 ..	4	3	...	7	6	2	....	8
1923 ..	4	3	...	7	6	2	....	8
1924 ..	12	12 1 Christian.	...	25	24	1	....	25
1925 ..	15	15	..	30	26	4	....	30
1926 ..	15	15	1 Namasudra of Faridpur	30	24	6	....	30
1927 ..	15 (including one Buddhist).	15	..	30	25	5	....	30
1928 ..	15 (including one Buddhist).	15	.	30	24	6	....	30
1929 ..	17 (including one Buddhist).	16	1 Namasudra of Dacca	33	24	8	1 Namasudra of Dacca	33
1930 ..	17 (including one Buddhist).	16	1 Namasudra of Jessore	33	31	2	....	33
1931 ..	17	16	1 Namasudra of Faridpur. 1 Namasudra of Tippera	33	24	8 Muhammadans 1 Christian.	....	33
1932 ..	16	17	....	33	22	10	1 Namasudra of Dacca 1 Santal of Midnapore	33

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to state whether instructions have been issued to the local officers this year?

The Hon'ble Mr. R. N. REID: As far as I know no special instructions were issued this year.

Khan Bahadur Maulvi AZIZUL HAQUE: May I ask if the attention of the Hon'ble Member has been drawn to the fact that out of a total recruitment of 303 in the year 1930 only an extraordinary small number of Muhammadans were recruited and that out of 53 promotions only two went to Muhammadans?

The Hon'ble Mr. R. N. REID: That is apparent from the statement.

Khan Bahadur Maulvi AZIZUL HAQUE: Is the Hon'ble Member aware that the regular complaint of the Muhammadan community is that the promotion of Muhammadan sub-inspectors are deliberately held up?

The Hon'ble Mr. R. N. REID: I am not aware of that.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state how it is that in spite of the fact that there are a very large number of Muhammadan sub-inspectors of police very few of them are promoted?

The Hon'ble Mr. R. N. REID: I will look into the matter.

Dr. Jyotirmoy Banerjee, assistant to Assistant Director of Public Health, School Hygiene.

***167. Maulvi NUR RAHMAN KHAN EUSUFJI:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether Dr. Jyotirmoy Banerjee, assistant to the Assistant Director of Public Health, School Hygiene, Bengal, gets any non-practising allowance over and above his salary?

(*b*) If the answer to (*a*) is in the affirmative, how much does he get per mensem as such allowance?

(*c*) Is the Hon'ble Minister aware that the said Dr. Banerjee has been holding outside appointments from time to time and carrying on private practice regularly?

(*d*) Will the Hon'ble Minister be pleased to state the special reasons for which a whole-time Government servant has been allowed to draw non-practising allowance to hold outside appointments and to carry on private practice?

(*e*) Is it a fact that several complaints have been made to the Government making specific allegations against the said Dr. Banerjee about holding outside appointments and carrying on private practice?

(*f*) If the answer to (*e*) is in the affirmative, what steps have been taken in the matter of complaints?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) No.

(*b*) Does not arise.

(*c*) He did so in 1931.

(*d*) Does not arise.

(*e*) Complaints were received in 1931 and again in July of this year.

(*f*) Orders issued in February, 1932, definitely prohibiting private practice and postponing the confirmation of Dr. Banerjee in his post. The complaint recently received is still under inquiry.

2-45 p.m.

Maulvi TAMIZUDDIN KHAN: With reference to answer (*e*), can the Hon'ble Minister say whether the said Dr. Banerjee is still attached to the Calcutta Medical Hospital at Circular Road as a private practitioner or is the matter still under inquiry.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I understand that he is not still attached to any hospital.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Minister be pleased to tell us whether the question of carrying on private practice by this gentleman is still under inquiry or is the Hon'ble Minister aware that he is still carrying on private practice?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: There is a fresh allegation: the question does not arise: the matter is still under inquiry.

Maulvi TAMIZUDDIN KHAN: May I inquire by whom the inquiry is being made?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: By the Director of Public Health.

Aided secondary schools in Bankura.

***168. Babu SATYA KINKAR SAHANA:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing—

(*i*) the names of secondary schools in the district of Bankura receiving Government aid;

(*ii*) the amount of aid received by each of them;

(*iii*) the amount spent by Government annually towards the maintenance of the Bankura Zilla School; and

(*iv*) the present number of students in each of the three secondary schools in the town of Bankura, *viz.*, the Bankura Zilla School, the Wesleyan Mission School and the Hindu School?

(*b*) Is it a fact that the Bankura Zilla School is situated in the centre of the town and the other two on its outskirts?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) A statement is laid on the table.

(*b*) The Zilla School is nearer to the centre of the town than the other two schools are.

Statement referred to in the answer to clause (a) of starred question No. 168.

(*a*) (*i*) and (*ii*)

		Per mensem. Rs.
1.	Wesleyan Collegiate H. E.	... 250
2.	Bankura Hindu H. E.	... 225
3.	Sonamukhi H. E.	... 120
4.	Kuchiakole H. E.	... 125
5.	Kotulpore H. E.	... 100
6.	Palashadanga H. E.	... 125
7.	Vishnupur H. E.	... 200
8.	Maliara H. E.	... 150
9.	Indas H. E.	... 115
10.	Rol H. E.	... 100
11.	Bankura M. E.	... 50
12.	Rajgram M. E.	.. 50

		Per mensem. Rs.
13. Vishnupur Mission M. E.	...	55
14. Chhatna M. E.	...	48
15. Panchal M. E.	...	50
16. Bankulia M. E.	...	54
17. Onda Mission M. E.	...	50
18. Shitla M. E.	...	50
19. Panchmora M. E.	...	55
20. Baliatore M. E.	...	70

(*iii*) Rs. 11,266 net in 1931-32.

(*iv*) The numbers on March 31st, 1932, were as follows:—

Zilla School—304.

Hindu School—459.

Wesleyan Mission School—480.

Classification of certain political convicts.

***169. Mr. R. MAITI:** (*a*) Is the Hon'ble Member in charge of the Political (Jails) Department aware—

(*i*) that Kali Roy, Kedar Roy, Panchcowri Choudhury and Fakir Muhammad, landholders of the Keshpur thana in the district of Midnapore, were convicted at Midnapore under Ordinance No. 2 of 1932;

(*ii*) that Kali Roy is at present serving out his sentences at Dum Dum additional special jail and Kedar Roy and Fakir Muhammad at Dum Dum new additional special jail and Panchcowri Choudhury at Hijli additional special jail;

(*iii*) that they have been placed in division III; and

(*iv*) that they applied formally for being placed in a higher division according to their social status and position?

(*b*) If the answer to (*a*) (*iv*) is in the affirmative, will the Hon'ble Member be pleased to state—

(*i*) whether their applications have been considered by the authorities; and

(*ii*) If their applications have not been considered, will the Hon'ble Member be pleased to state the reasons therefor?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) Yes, but Government have no information whether they were landholders.

(*ii*) Yes, except that Panchcowri Choudhury has since been released.

(*iii*) Yes.

(*iv*) Only Fakir Muhammad applied for higher classification to the convicting court.

(*b*) (*i*) Yes, it was considered and rejected.

(*ii*) Does not arise.

Mr. R. MAITI: With reference to answer (*b*) will the Hon'ble Member be pleased to tell us on what ground the petition was rejected?

The Hon'ble Sir PROVASH CHUNDER MITTER: I want notice.

Civil disobedience prisoners.

*170. **Babu SUK LAL NAG:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state what work, if any, was given to the civil disobedience prisoners in the Khulna Jail during January and February, 1932?

(*b*) Was there any Licentiate of the State Medical Faculty amongst such prisoners?

(*c*) If so, what work was given to him?

(*d*) Was there any suggestion to employ him in hospital work?

(*c*) Was there any such person who was subsequently transferred to division II of convicted prisoners?

(*d*) Was there any objection from the prisoners regarding the nature of the work given to them?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) Coir pounding.

(*b*) and (*c*) Yes. He was given net-bag weaving and coir pounding work.

(*d*) and (*e*) No.

(*f*) Yes. Most civil disobedience prisoners are averse from any kind of work.

Muhammadan Government pleaders.

*171. **Khan Bahadur Maulvi MUAZZAM ALI KHAN:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state if there are, at present, any Muhammadan Government pleaders in the province?

(*b*) If the answer to (*a*) is in the negative, will the Hon'ble Member be pleased to state whether he intends appointing suitable Muhammadans as Government pleaders in future vacancies?

MEMBER in charge of JUDICIAL DEPARTMENT: (the Hon'ble Mr. R. N. Reid): (*a*) No.

(*b*) The claims of suitable Muhammadans will be considered at the time of filling future vacancies but no undertaking can be given as to who is actually appointed.

Manufacture of spirituous preparations by chemists.

172. **Rai Bahadur KESHAB CHANDRA BANERJI:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries (Excise) Department be pleased to state whether it is a fact that certain restrictions have been imposed on the allopathic chemists regarding purchase of rectified spirit for the manufacture of *bona fide* medicinal preparations?

(*b*) Will the Hon'ble Minister be pleased to state whether any changes have been made in the terms of the special permit issued in Form No. 54, page 113 of the Bengal Excise Manual (Vol. III), for the purchase of rectified spirit at the concessionary rate of duty with effect from April, 1932?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Minister be pleased to state whether the allopathic chemists are required to furnish *recipes* solely for the manufacture of spirituous preparations strictly in accordance with the directions and specifications contained in the British Pharmacopœia?

MINISTER in charge of AGRICULTURE and INDUSTRIES (EXCISE) DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) Yes; in the case of those allopathic chemists who obtain rectified spirit for the manufacture of *bona fide* medical preparations at concession rate of duty.

(*b*) Yes.

(*c*) The allopathic chemists are not required to furnish *recipes* for the manufacture of spirituous preparations appearing in the British Pharmacopœia, but such preparations manufactured by them must conform to the *recipe*, directions and specifications laid down in the British Pharmacopœia. For manufacture of spirituous medicinal preparations not included in the British Pharmacopœia they are to furnish *recipes* of the preparations along with their application and have to conform to the sanctioned *recipes*.

Rai Bahadur Dr. HARIDHAN DUTT: Will the Hon'ble Minister kindly say what he means by "allopathic chemists"?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Chemists dealing in allopathic medicines.

Sale of spirituous medicinal preparations.

***173. Rai Bahadur KESHAB CHANDRA BANERJI:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries (Excise) Department be pleased to state whether it is a fact that chemists are required to send a sample of every preparation to the Assistant Chemical Examiner for analysis and no issue or sale of the preparation is allowed until his report of the analysis has been issued?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state the reasons for such restrictions?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) All chemists who manufacture spirituous medicinal preparations have not to send samples of each preparation manufactured by them to the Assistant Chemical Examiner for Excise, but only those allopathic chemists who hold special permits to obtain spirit at concession rate of duty for manufacture of spirituous medicinal preparations and the chemists who manufacture such preparations in bonded laboratories are required by conditions of their respective permit and licence to send a sample of every preparation to the Assistant Chemical Examiner for Excise for analysis.

In the case of the latter, where manufacture of spirituous medicinal preparations is carried on in bond under the direct supervision of an excise officer, there are no restrictions on issue or sale of the preparations which are on analysis by their own qualified chemists declared to be of the prescribed strength; but in the case of the former holding special permit, it is a condition of their permit that no issue or sale of any preparation should be made until the receipt of the report of analysis of the preparation from the Assistant Chemical Examiner for Excise.

(*b*) These restrictions have been imposed to guard against manufacture or sale of spirituous preparations below the standard fixed by British Pharmacopœia.

Rai Bahadur Dr. HARIDHAN DUTT: In connection with answer (*b*) will the Hon'ble Minister kindly assure us that his object has been gained, namely, that the manufacture or sale of spirituous preparation below the standard fixed by British Pharmacopœia has been stopped?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am not in a position to give an assurance. I want further notice.

Intellectual co-operation.

*174. **MUNINDRA DEB RAI MAHASAI:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether any inquiries were made by the Education Department regarding the communication received from the International Committee on Intellectual Co-operation, League of Nations, through the Educational Commissioner to Government of India?

(*b*) If so, will the Hon'ble Minister be pleased to lay the same on the table and state the nature of the replies received?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) Yes.

(*b*) Government regret they cannot publish the correspondence in this case.

MUNINDRA DEB RAI MAHASAI: With reference to answer (*b*) will the Hon'ble Minister be pleased to state whether the correspondence is of a confidential nature or is it opposed to public interest to publish it?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: All such correspondence with the Central Government are confidential.

MUNINDRA DEB RAI MAHASAI: Is there any objection to publish the decision arrived at on the subject?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No decision has been arrived at.

Dacoities in Bengal.

*175. **Rai Bahadur KESHAB CHANDRA BANERJI:** Will the Hon'ble Member in charge of the Police Department be pleased to lay on the table a statement showing separately for the last three years, district by district,—

(*i*) the number of dacoities committed in Bengal;

(*ii*) the number of dacoities detected;

(*iii*) the number of cases that ended in conviction;

(*iv*) the number of dacoities that could not be detected or traced at all; and

(*v*) the number of cases that failed for want of proper evidence?

The Hon'ble Mr. R. N. REID: (*i*) (*ii*) (*iii*) (*iv*) and (*v*) A statement is laid on the table. Detailed figures, district by district, under each head for the year 1929 are not available.

Statement referred to in clauses (i), (ii), (iii), (iv) and (v) of starred question No. 178.

Serial No.	Name of district.	1929.		1930.		1931.	
		Number of dacoities committed (true cases).	Number of dacoities detected.	Number of cases that ended in conviction.	Number of dacoities that could not be detected or traced at all.	Number of cases that failed for want of proper evidence	Number of dacoities committed (true cases).
1	2	3		4		5	
1	Balasingal	1	1	1			1
2	Balasore	1	1				1
3	Berhampur	1	1				1
4	Bhatinda	1	1				1
5	Chhindwara	1	1				1
6	Dharwar	1	1				1
7	Gaya	1	1				1
8	Godhra	1	1				1
9	Jhansi	1	1				1
10	Jodhpur	1	1				1
11	Kaira	1	1				1
12	Kolaba	1	1				1
13	Mahbubnagar	1	1				1
14	Mandla	1	1				1
15	Muzaffarnagar	1	1				1
16	Nasik	1	1				1
17	Nellore	1	1				1
18	Patna	1	1				1
19	Rajkot	1	1				1
20	Tanjore	1	1				1
	Total	20	20				20

Serial No.	Name of district.	1929.		1930.		1931.	
		Number of dacoities committed (true cases).	Number of dacoities detected.	Number of cases that ended in conviction.	Number of dacoities that could not be detected or traced at all.	Number of cases that failed for want of proper evidence	Number of dacoities committed (true cases).
1	2	3		4		5	
1	Ahmadabad	1	1				1
2	Ahmednagar	1	1				1
3	Akola	1	1				1
4	Amraoti	1	1				1
5	Bankura	1	1				1
6	Bareilly	1	1				1
7	Basti	1	1				1
8	Belgaum	1	1				1
9	Bellary	1	1				1
10	Bhagalpur	1	1				1
11	Bhandara	1	1				1
12	Bijapur	1	1				1
13	Broach	1	1				1
14	Burdwan	1	1				1
15	Cawnpore	1	1				1
16	Chanda	1	1				1
17	Dacca	1	1				1
18	Darbhanga	1	1				1
19	Dharwar	1	1				1
20	Dhulia	1	1				1
21	Dinajpur	1	1				1
22	Ferozepore	1	1				1
23	Gaya	1	1				1
24	Godhra	1	1				1
25	Gujranwala	1	1				1
26	Gurgaon	1	1				1
27	Hamirpur	1	1				1
28	Hardoi	1	1				1
29	Hissar	1	1				1
30	Hoshangabad	1	1				1
31	Howrah	1	1				1
32	Hyderabad	1	1				1
33	Jalgaon	1	1				1
34	Jalpaiguri	1	1				1
35	Jessore	1	1				1
36	Jhansi	1	1				1
37	Jodhpur	1	1				1
38	Kaira	1	1				1
39	Kanara	1	1				1
40	Karnal	1	1				1
41	Khandesh	1	1				1
42	Kolaba	1	1				1
43	Kolhapur	1	1				1
44	Lahore	1	1				1
45	Lucknow	1	1				1
46	Mahbubnagar	1	1				1
47	Mandla	1	1				1
48	Meerut	1	1				1
49	Midnapore	1	1				1
50	Monghyr	1	1				1
51	Montgomery	1	1				1
52	Moradabad	1	1				1
53	Multan	1	1				1
54	Muzaffarnagar	1	1				1
55	Nasik	1	1				1
56	Nellore	1	1				1
57	Nimar	1	1				1
58	Patna	1	1				1
59	Rajkot	1	1				1
60	Rangpur	1	1				1
61	Rohtak	1	1				1
62	Saharanpur	1	1				1
63	Salem	1	1				1
64	Satara	1	1				1
65	Sholapur	1	1				1
66	Surat	1	1				1
67	Tanjore	1	1				1
68	Tippera	1	1				1
	Total	68	171	105	522	63	1,193

Serial No.	Name of district.	1930.		1931.	
		Number of dacoities detected.	Number of cases that ended in conviction.	Number of dacoities that could not be detected or traced at all.	Number of cases that failed for want of proper evidence.
1	2		4		5
1	Ahmadabad	1	1		
2	Ahmednagar	1			
3	Akola	1			
4	Amraoti	1			
5	Bankura	1			
6	Bareilly	1			
7	Basti	1			
8	Belgaum	1			
9	Bellary	1			
10	Bhagalpur	1			
11	Bhandara	1			
12	Bijapur	1			
13	Broach	1			
14	Burdwan	1			
15	Cawnpore	1			
16	Chanda	1			
17	Dacca	1			
18	Darbhanga	1			
19	Dharwar	1			
20	Dhulia	1			
21	Dinajpur	1			
22	Ferozepore	1			
23	Gaya	1			
24	Godhra	1			
25	Gujranwala	1			
26	Gurgaon	1			
27	Hamirpur	1			
28	Hardoi	1			
29	Hissar	1			
30	Hoshangabad	1			
31	Howrah	1			
32	Hyderabad	1			
33	Jalgaon	1			
34	Jalpaiguri	1			
35	Jessore	1			
36	Jhansi	1			
37	Jodhpur	1			
38	Kaira	1			
39	Kanara	1			
40	Karnal	1			
41	Khandesh	1			
42	Kolaba	1			
43	Kolhapur	1			
44	Lahore	1			
45	Lucknow	1			
46	Mahbubnagar	1			
47	Mandla	1			
48	Meerut	1			
49	Midnapore	1			
50	Monghyr	1			
51	Montgomery	1			
52	Moradabad	1			
53	Multan	1			
54	Muzaffarnagar	1			
55	Nasik	1			
56	Nellore	1			
57	Nimar	1			
58	Patna	1			
59	Rajkot	1			
60	Rangpur	1			
61	Rohtak	1			
62	Saharanpur	1			
63	Salem	1			
64	Satara	1			
65	Sholapur	1			
66	Surat	1			
67	Tanjore	1			
68	Tippera	1			
	Total	68	1	1,611	168

*Excluding one case in which investigation was refused and which does not fall under any of these headings.

Mr. NARENDRA KUMAR BASU: Having regard to the very large number of dacoities committed in 1931, namely 1929, and the fact that more than 80 per cent. of them could not be detected or traced at all, is the Hon'ble Member considering the question of increasing the police budget by another 80 per cent.?

The Hon'ble Mr. R. N. REID: No, Sir.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state, having regard to the large number of cases remaining undetected, whether Government propose to employ more competent officers?

The Hon'ble Mr. R. N. REID: I do not admit the implication that the officers are not competent.

Mr. SHANTI SHEKHARESWAR RAY: May I inquire if all the cases were cases of political dacoities?

The Hon'ble Mr. R. N. REID: No, Sir, they were not all political cases.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it not the fact that the reason of such a large number of cases remaining undetected is that qualified men are not promoted from sub-inspectors?

(No answer.)

Namasudra sub-registrars.

***178. Babu LALIT KUMAR BAL:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing since 1921—

(*i*) how many sub-registrars have been appointed;

(*ii*) the number taken from among the Hindus and Muhammadans respectively; and

(*iii*) the number taken from the depressed classes?

(*b*) Were any sub-registrars appointed from the qualified candidates belonging to the Namasudra community and other depressed classes of the Bakarganj district? If so, how many?

(*c*) Is there any possibility of recruitment of sub-registrars this year?

(*d*) If the answer to (*c*) is in the affirmative, what steps do the authorities intend to take to preserve the interests of the depressed classes in the matter of such recruitment?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) A statement is laid on the table.

(*b*) The information is not readily available.

(*c*) It is possible but not probable that sub-registrars will be recruited this year.

(*d*) The existing rules lay down that special attention should be paid to the claims of candidates belonging to the backward classes. It is not proposed to add any special instructions.

Statement referred to in the answer to clause (*a*) *of starred question No. 176.*

(*a*) (*i*) 177.

(*ii*) 88 Hindus, 88 Muhammadans.

(*iii*) The information is not readily available, and its collection would involve so much time and labour that Government are not prepared to undertake it.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister kindly explain with reference to the statement how 88 Hindus and 88 Muhammadans make a total of 177?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: There was another candidate taken from another community.

Reverend B. A. NAG: May I inquire which is that fortunate community to which the remaining one went?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Buddhist.

Reverend B. A. NAG: May I know if any Indian Christian was appointed since 1921?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: From the statement it appears that no appointment was made from that community.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Unemployed educated youths in Bengal.

82. Mr. ANANDA MOHAN PODDAR: (*a*) Will the Hon'ble Member in charge of the Revenue (Jurisdiction) Department be pleased to lay on the table a statement showing, according to the last census reports, the total population of Bengal, district by district, stating separately—

(*i*) the number of the Hindus and Muhammadans;

(*ii*) the number of adult males over 21 among the Hindus and Muhammadans;

(*iii*) proportion of literates among the Hindus and Muhammadans; and

(*iv*) proportion of literates among the backward section of the Hindus and Muhammadans?

(*b*) Will the Hon'ble Member be pleased to state whether any statistics of the unemployed educated youths of Bengal have been taken during the last census?

(*c*) If so, will the Hon'ble Member be pleased to lay on the table a statement showing, district by district, the number of unemployed educated youths in Bengal?

MEMBER in charge of REVENUE (JURISDICTION) DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Ghuznavi): (*a*) (*i*) and (*iii*) The information will be found in Imperial Table XIII published in the *Calcutta Gazette* of 21st July, 1932.

(*ii*) The same table gives the number of males aged 20 and over. Separate figures for those over 21 are not available.

(*iv*) Complete figures are not available, but figures for representative groups will be found in Imperial Table XIV published in the same Gazette.

(*b*) During the census enumeration opportunity was given to educated unemployed males to furnish particulars, but the return was voluntary; there was no statutory obligation to make it and very few did so.

(*c*) The total number of males who had reached the Matriculation or higher standard and returned themselves as unemployed was 3,474 in British territory in Bengal, and in view of the incompleteness of the returns, Government consider that it would be misleading to publish the figures district by district as showing the number of unemployed educated youths in Bengal.

Hindu Female Training School in Calcutta.

83. Khan Bahadur Maulvi ALIMUZZAMAN CHAUDHURI: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(i) what is the rent of the house which is being occupied by the Hindu Female Training School;

(ii) where it is situated;

(iii) how many times it was shifted since 1926; and

(iv) what was the rent given in each case?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (i) Rs. 400 a month.

(ii) 72, Lansdowne Road, Calcutta.

(iii) Twice—in 1926 and 1929.

(iv) Before 1926 the rent was Rs. 400. The rent of the premises secured in 1926 was Rs. 400 a month and of those in 1929 Rs. 500, which was subsequently reduced from May, 1932, to Rs. 400.

GOVERNMENT BILLS.

The Bengal Motor Vehicles (Amendment) Bill, 1932.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, with your permission I beg to present the report of the Select Committee on the Bengal Motor Vehicles (Amendment) Bill, 1932. Since the publication of the report Mr. P. N. Guha has also signed it.

The Bengal Municipal Bill, 1932.

[The discussion on the Bengal Municipal Bill, 1932, was then resumed.]

Mr. PRESIDENT: Should we take up the clauses the consideration of which was postponed, or do you want them to be dealt with later?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: They may be taken up later in the day.

Clause 202.

Mr. PRESIDENT: The question is that clause 202 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: I formally move that clause 202 (*a*) be omitted.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. This is consequential upon clause 131 which has been held over.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The consideration of this clause may also be postponed.

Mr. PRESIDENT: That being so, I shall take up the clauses to which no notice of amendment has been received.

Clauses 203 to 207.

Mr. PRESIDENT: The question is that clauses 203, 204, 205, 206 and 207 stand part of the Bill.

The motion was put and agreed to.

3 p.m.

Clause 208.

Mr. PRESIDENT: The question is that clause 208 stand part of the Bill.

Rai Bahadur Dr. HARIDHAN DUTT: I beg to move that in clause 208 (*c*), in line 2, the words "permanently close" be omitted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I oppose this amendment. This clause is based on section 306 of the Calcutta Municipal Act, and sufficient safeguard has been provided in clause 209 of this Bill. I do not think that we can give up this clause.

The motion of Rai Bahadur Dr. Haridhan Dutt was put and lost.

Mr. PRESIDENT: The question is that clause 208 stand part of the Bill.

The motion was put and agreed to.

Clauses 209 to 211.

Mr. PRESIDENT: The question is that clauses 209, 210 and 211 stand part of the Bill.

The motion was put and agreed to.

Clause 212.

Mr. PRESIDENT: The question is that clause 212 stand part of the Bill.

Babu KHETTER MOHAN RAY: I beg to move that clause 212 be omitted.

Sir, with your permission, may I also move the other motions that stand in my name, because they relate to one another?

Mr. PRESIDENT: It will be better if you will only move the motion I have called out.

Babu KHETTER MOHAN RAY: This clause says "any person intending to make or lay out a new private street shall send to the commissioners written notice with plans and sections showing the particulars of the proposed street," etc., etc. This clause has been copied from the Calcutta Municipal Act and is suitable only for a town like Calcutta, but not suitable for a *mufassal* municipal town, because *mufassal* municipalities generally cover large areas and the houses therein are sparsely situated and consequently there is no need for introduction of such rules into *mufassal* towns. This would also restrict the liberty of private owners to make or lay out any roads without the consent of the commissioners. These provisions which may be suitable for Calcutta, are not suitable for the *mufassal* municipal towns. The definition of "private street" as given in clause 3 (*43*) is wide enough to include passages or roads in garden, house, factory, orchard, etc., for access to and from different parts of the same. No public purpose would be served by imposing such restrictions on the owners of the properties in the municipal towns. They will be a source of harassment to the people. So, I move that the clause be deleted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. If this amendment is accepted there will be no provision about private streets. In this matter we have followed the Calcutta Municipal Act. What is a private street has been defined in sub-clause (*43*) of clause 3. So I oppose the amendment. This clause is very necessary for the opening out of new public streets.

Rai Bahadur Dr. HARIDHAN DUTT: I do not understand what Babu Khetter Mohan Ray means by saying that this clause will interfere with private rights. I cannot follow it. "Any person intending to

make or lay out any new private street" will come under this section. How then private right is interfered with? I do not understand it. So I oppose the amendment.

The motion of Babu Khetter Mohan Ray was then put and lost.

Mr. PRESIDENT: The question is that clause 212 stand part of the Bill.

The motion was put and agreed to.

Clauses 213 to 222.

Mr. PRESIDENT: The question is that clauses 213, 214, 215, 216, 217, 218, 219, 220, 221 and 222 stand part of the Bill.

The motion was put and agreed to.

Clause 223.

Mr. PRESIDENT: The question is that clause 223 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: I beg to move that in the proviso to clause 223 (4), in line 3, after the word "with" the words "or without" be inserted.

The proviso says that a platform may be erected, re-erected or extended upon or over any public street or drain before the commencement of this Act with the permission of the commissioners. Here I want to add the words "or without" the permission of the commissioners at a meeting, so that it shall be allowed to remain on the same terms and conditions including the payment of any rent or fee prescribed in the permission. Sir, many such platforms must have been built a long time before the enactment of this Bill and it is all the same whether they were built with or without the permission of the commissioners. Rather it would seem that some of them were built without any written permission from the commissioners of which any record is available. When these things have been standing there for so many years and the municipality has taken no notice of such platforms or projections, as in such cases permission is implied I think they should exist and should not be removed with the enactment of the present Bill. With these words I move my amendment and commend it to the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment, Sir. Why should we make an exception in favour of platforms being built without permission of the commissioners? Let the owner of every platform come under the ordinary law. Such a law exists already, and I do not see why we should make an exception.

The motion of Dr. Amulya Ratan Ghose was put and lost.

Mr. PRESIDENT: The question is clause 223 stand part of the Bill.

The motion was put and agreed to.

Clauses 224 to 226.

Mr. PRESIDENT: The question is that clauses 224, 225 and 226 stand part of the Bill.

The motion was put and agreed to.

Clause 227.

Mr. PRESIDENT: The question is that clause 227 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 227 (*1*) (*1a*), in line 3, for the word "without" the words "after due" be substituted.

Sir, it is a fact that municipalities sometimes take the law into their own hands. What is the harm if such a thing is removed after due notice? When action of such a kind, *viz.*, the removal of a structure or anything like that is contemplated by the commissioners, I am of opinion, Sir, that it should not be done without giving the owner thereof due notice; to allow the municipalities to do so without notice would be very unreasonable.

3-15 p.m.

Maulvi HASSAN ALI: Sir, I beg to support this amendment. The removal of an obstruction without notice is objectionable on principle. I think the municipal commissioners ought not to act merely on the report of their officers and in the matter of the removal of a wall or similar obstruction, if they act upon the report of their officers without hearing the party causing the obstruction, this will cause irritation to the person concerned. So, I submit that as regards the removal of obstruction, the municipality should always act after giving due notice.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. The mover of the amendment has said: "Why should the municipality take the law into their hands?" As a matter of fact, Sir, the municipality do not propose to take the law into their own hands: on the other hand, it is the private ratepayer who first takes the law into his own hands and puts the municipality always in the defensive. So, I do not think there is any justification for the remarks made by the mover.

Maulvi Hassan Ali has said that it will cause irritation to the private person concerned. If it causes irritation to the private owner who transgresses the law, I think it causes greater irritation to the municipality if they have to issue a notice to a person who has violated the law.

The motion of Dr. Amulya Ratan Ghose was then put and a division asked for by the mover.

After the division bell ceased ringing, the Hon'ble the President declared that "the Noes have it", and the mover did not ask for a division.

Mr. PRESIDENT: Dr. Ghose, I am very sorry that you have again for nothing wasted the time of this House.

Dr. AMULYA RATAN GHOSE: Sir, I claimed the division on a matter of principle.

Mr. PRESIDENT: I think that is merely a lame excuse.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in clause 227 (*1*) (*b*), in line 2, for the word "without" the words "after due" be substituted.

Sir, the clause says: The commissioners may, themselves or by any officer authorised by them in writing in this behalf, remove without notice any materials or goods or any movable property, which has, without their permission, been deposited in a public street or in, over, above, or upon any house-gully, or any public sewer, drain, aqueduct, water-course or ghat, or which remains so deposited when the period covered by any permission given in this behalf has expired, whether or not the offender be prosecuted under this Act or any rules or by-laws made thereunder, and the offender shall be liable to pay the expense of such removal.

Sir, first of all, it has got to be proved whether the person concerned is an offender or not and it should not be dependent merely upon the report of some municipal officer or employee. Therefore, Sir, the person who is considered to be an offender should be allowed plenty of time or sufficient time to defend himself before the municipal authorities and prove himself guilty or innocent. Of course, if it is proved that he has done something wrong, then of course action as contemplated in this Bill may be taken against him. Therefore, by this amendment I propose that whenever such action has got to be taken against any ratepayer, the municipality ought to do it after giving one notice to the offender. Sir, with these observations I commend my motion to the acceptance of the House.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I rise to oppose this amendment as strongly as I can. The acceptance of the amendment will frustrate the object of the municipality in keeping the roads clear for the purposes of pedestrians. I fail to understand the object of Dr. Ghose in placing a motion like this before the House. Perhaps he has noticed that the removal of obstruction placed in public streets, is urgently necessary in order to keep the roads clear and in such cases prompt action ought to be taken and the municipality ought to be entrusted with every power to remove such nuisances as are caused unauthoritatively by persons. If any notice has to be given to such persons, perhaps after the notice an adequate time must be given, then perhaps some time for hearing the party and then perhaps a case has to be brought before a court of law. All that seems to be quite ridiculous.

Mr. H. P. V. TOWNEND: Sir, I do not think that this amendment is at all necessary. I do not understand why Dr. Ghose is so tender about offenders of this sort. The position is that if Dr. Ghose's suggestion is accepted, the municipality should have to wait after giving notice. Meanwhile what is going to happen to the public sewer which has been obstructed? In the case of such a serious nuisance it is very necessary that it should be removed immediately, and the municipality should be given summary power to remove such nuisance.

The motion of Dr. Amulya Ratan Ghose was then, by leave of Council, withdrawn.

Mr. PRESIDENT: The question is that clause 227 stand part of the Bill.

The motion was put and agreed to.

Clause 228.

Mr. PRESIDENT: The question is that clause 228 stand part of the Bill.

The motion was put and agreed to.

Clause 229.

Mr. PRESIDENT: The question is that clause 229 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that in clause 229, the word "public" wherever it occurs, be omitted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I oppose this amendment.

The motion of Munindra Deb Rai Mahasai was put and lost.

Mr. B. C. CHATTERJEE: Sir, I beg to move that in clause 229, in lines 6 and 7, after the words "any property of the commissioners" the following be inserted namely:—

"or any public or private building, urinal or privy".

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, the word "property" includes public buildings and I do not think it necessary to insert these words. In the case of private buildings, I do not think it is at all necessary for the commissioners to interfere.

The motion of Mr. B. C. Chatterjee was then put and lost.

Mr. PRESIDENT: The question is that clause 229 stand part of the Bill.

The motion was put and agreed to.

New clause 229A.

Babu SATYENDRA NATH ROY: Sir, I beg to move——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I intervene and say that I am prepared to accept the amendment subject to some changes in the draft. As regards the other motion, namely 1633 to 1635, I am going to oppose it.

1-30 p.m.

Babu SATYENDRA NATH ROY: I beg to move that after clause 229 the following be added, namely:—

"229A. (*1*) If it is brought to the notice of the commissioners that a part of any public road or drain or any municipal property has been damaged or washed away or eroded or eaten into by any tank, pond which exists just by the side of thereof, the commissioners may require the owner or owners of such tank or pond to repair the damage done and to restore such public drain or road or municipal property into its original condition within a month from the date of the receipt of the notice.

(*2*) The commissioners may extend the time specified in the notice issued under sub-section (*1*); provided the owner or owners apply for the same in writing and provided in the opinion of the commissioners, the month or the season in which the work is required to be executed, is such that the work of repair cannot be undertaken. Failure on the part of owner or owners to comply with the requisition within specified time or such extended time as granted by the commissioners will be considered as an offence, punishable under section 486:

Provided also that the commissioners shall have power to execute the work or works out of municipal funds and recover the cost thereof from the owner or owners in the same manner as if it were an arrear of taxes or by other legal process."

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am prepared to accept this amendment subject to certain alterations.

Mr. PRESIDENT: Will you move it as your own amendment?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes.

I beg to move that after clause 229 the following be added, namely:—

Commissioners may require owners of land to repair damage to street, etc

"229A. Whenever any public street or drain or any other municipal property is damaged, washed away or eroded by any private pool, ditch, tank, pond, pit or other excavation which exists by the side of such street, drain or property, the commissioners may, by written notice, require the owner or occupier of the land on which such pool, ditch, tank, pond, pit or excavation is situated to repair the damage and to restore the street, drain or property to its original condition as far as possible within one month from the date of the service of such notice."

Mr. B. C. CHATTERJEE: In regard to my amendment, with due respect I would suggest that if it is embodied in the clause, a very useful purpose will be served. But at the same time, I recognise the difficulty of the legislature. I have no objection if the Hon'ble Minister will be in a position to accept all the suggestions which this amendment seeks to carry into effect, and I will not press it.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It is very difficult to accept this amendment because it is very vague, and it is difficult to ascertain the degree of damage caused by such action. I would request the hon'ble member not to press it.

The motion of Babu Satyendra Nath Roy was then, by leave of the Council, withdrawn.

The following motion was then, by leave of the Council, withdrawn:—

Mr. B. C. CHATTERJEE to move that after clause 229, the following be inserted, namely:—

"229A. If it appears to the commissioners that any public road or drain or any other municipal property or part thereof is washed away or damaged or likely to be washed away or damaged by the waves caused by the back wash of steamers and motor boats plying in the rivers adjacent to the municipality or by the mooring of boats in such river or by the action of men who use the slopes of such roads for the purpose of landing from or boarding on such steamers or boats, or by the action of persons who allowed banks of their tanks, pits and of the excavations to be scoured away, the commissioners may, by notice, control the speed of such steamers and motor boats within one mile of the municipal area or prohibit or control in such manner as they think fit the mooring of such boats or prohibit people from using the slopes of such roads, drains or other municipal property or require the owners of such tanks, pits and other excavations to fill them up, and the persons in charge of such steamers or boats and the persons using the slopes and the owners of such tanks, pits and other excavations shall be bound to conform to the regulations and order of the commissioners in this respect."

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then put and agreed to.

Clauses 230 and 231.

Mr. PRESIDENT: The question is that clauses 230 and 231 stand part of the Bill.

The motion was put and agreed to.

Clause 232.

Mr. PRESIDENT: The question is that clause 232 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 232, in line 1, the words "at a meeting" be omitted. It is not possible to place all matters of municipal administration of this description before the commissioners at a meeting; it only causes unnecessary delay.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. This provision for general conservancy arrangements should be considered by the commissioners at a meeting, and not by the chairman himself.

The motion of Munindra Deb Rai Mahasai was put and lost.

Dr. AMULYA RATAN GHOSE: I beg to move that to clause 232 the following be added, namely:—

"on the failure of the commissioners to do so as set forth in sub-clauses (*a*) and (*b*) the Magistrate of the District shall take any action after due notice as he may think fit and expedient."

This is a very necessary thing and ought to be inserted. There have been cases in which either the commissioners are negligent or unwilling to perform their duties. In such cases the district authorities were approached, but they clearly showed that there was nothing in the Act by which they could take action against such commissioners. If such power is not put in the hands of the district authorities, the commissioners may similarly neglect their duties at times, and that will be a great hardship to the ratepayers, and against them no action for relief may be taken for the time being by the authorities. There have been cases where the commissioners of many municipalities have been negligent, and——

Mr. H. P. V. TOWNEND: May I intervene at this stage to save the time of the House? There is a section, section 534, which definitely covers all this in the Bill.

Dr. AMULYA RATAN GHOSE: In that case, I beg leave to withdraw my amendment.

The motion was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that clause 232 stand part of the Bill.

The motion was put and agreed to.

Clauses 233 to 251.

Mr. PRESIDENT: The question is that clauses 233 to 251 stand part of the Bill.

The motion was put and agreed to.

Clause 252.

Mr. PRESIDENT: The question is that clause 252 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I at this stage move an amendment with your permission?

Mr. PRESIDENT: Do you want to move it after Mr. Chatterjee's amendment?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: But this covers that amendment. I beg to move that for the words "of their obligations" in line 4 of the proviso to clause 252, the words "to perform their obligations" be substituted.

The motion was put and agreed to.

Mr. B. C. CHATTERJEE: This does not cover my amendment. I would like to move my amendment. I beg to move that in the proviso to clause 252, in line 2, for the word "under" the words "for non-compliance with the provisions of" be substituted. In this amendment I am suggesting the substitution of the words "for non-compliance with the provisions of" for the word "under". I think this will be better.

Mr. NARENDRA KUMAR BASU: There is no penalty attached to it.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am prepared to accept this.

The motion of Mr. B. C. Chatterjee was then put and agreed to.

Mr. PRESIDENT: The question is that clause 252, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clauses 253 and 254.

Mr. PRESIDENT: The question is that clauses 253 and 254 stand part of the Bill.

The motion was put and agreed to.

Clause 255.

Mr. PRESIDENT: The question is that clause 255 stand part of the Bill.

Maulvi SYED MAJID BAKSH: I beg to move that after clause 255 (*e*) the word "and" be omitted and after clause 255 (*f*) the following be inserted, namely:—

"and

(*g*) generally regulating the observance of sanitary and hygienic rules in any premises"

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I at this stage point out that this amendment is out of place because we are dealing with conservancy and removal of sewerage, etc. That is the heading here. I think the amendment dealing with the observance of sanitary and hygienic rules should not come under it.

Mr. PRESIDENT: Why not?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It is not covered by the heading of this chapter.

Khan Bahadur Maulvi AZIZUL HAQUE: It should be put in the clause dealing with conservancy.

Maulvi SYED MAJID BAKSH: There is no chapter and there is no such particular provision under which it can be put. If it were possible to put it anywhere else, I would have done so, but conservancy comes under this clause, and it also covers sanitary and hygienic rules, and therefore my amendment cannot be out of place. I submit these rules should be introduced in this clause, and there is no difficulty in making this provision.

Mr. PRESIDENT: Yes, I take it that you have moved it.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment on the grounds I have already stated. I think it should have come somewhere in chapter 12.

The motion of Maulvi Syed Majid Baksh was then put and lost.

Mr. PRESIDENT: The question is that clause 255 stand part of the Bill.

The motion was put and agreed to.

Clause 256.

Mr. PRESIDENT: The question is that clause 256 stand part of the Bill.

3-45 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that in the proviso to clause 256, in line 4, for the words "General Officer Commanding the District" the words "Officer Commanding-in-Chief the Command" be substituted.

This has been suggested by the Legislative Department of the Government of India and we have accepted it.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 256, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clauses 257 to 261.

Mr. PRESIDENT: The question is that clauses 257 to 261 stand part of the Bill.

The motion was put and agreed to.

Clauses 262 to 266.

Mr. PRESIDENT: The question is that clause 262 to 266 stand part of the Bill.

The motion was put and agreed to.

Clause 267.

Mr. PRESIDENT: The question is that clause 267 stand part of the Bill.

Maulvi SYED MAJID BAKSH: I beg to move that after clause 267 (*5*) the following be inserted, namely:—

"(*6*) If the objection of the commissioners is only of a financial nature the Local Government may, in consultation with the commissioners, propose a reasonable contribution towards the cost of the scheme and if the commissioners still refuse, the Local Government may, and not otherwise, take action under sub-section (*4*); provided that the proposed contribution is made by the Local Government to meet the cost of this scheme."

My object in making this amendment is that sometimes work of a very important nature is necessary and municipal funds may not be sufficient to carry it out. The Local Government may contribute towards it but still some more contribution may be necessary in order to make the scheme, which is of a useful nature, successful. Therefore I propose this amendment in order to enable the Local Government to make some sort of contribution towards a very useful scheme whether the commissioners accept the scheme or not. But if the commissioners refuse, which will be somewhat of an unreasonable nature, then and then only the Local Government may take action on the scheme. It is a very reasonable proposal. It gives Government opportunity to help the municipalities financially to make the improvements which are absolutely necessary.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this motion. This clause is based on the existing section 37 (*k*) of the present Act. There cannot be any statutory provision making contribution by Government compulsory. If a municipality is in need of funds it can always ask for loan and for this provision has been made in sub-clause (*4*) of this clause. Under this sub-clause compulsory contribution by Government is not reasonable.

The motion of Maulvi Syed Majid Baksh was then put and lost.

Mr. PRESIDENT: The question is that clause 267 stand part of the Bill.

The motion was put and agreed to.

Clauses 268 to 271.

Mr. PRESIDENT: The question is that clauses 268 to 271 stand part of the Bill.

The motion was put and agreed to.

Clauses 272, 273, 275, 277, 279 and 280.

Mr. PRESIDENT: The question is that clauses 272, 273, 275, 277, 279 and 280 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move—

that in clause 272 (*1*), in lines 2 and 15, the words "cable, wire" be omitted;

that in clause 273, in lines 1 and 4, the words "cable, wire" be omitted;

that in clause 275 (*1*) (*a*), in line 5, the words "cable or wire", and in line 7, the word "electricity" be omitted;

that in clause 277, in lines 2 and 3, the words "or electricity", be omitted and, in line 3, after the word "person", the word "or" be inserted;

that in clause 279 (*1*), in line 5, the word "electric" be omitted;

that in clause 279 (*2*), in line 4, for the words "water or electricity" the words "or water" be substituted; and

that in clause 280, in line 1, the word "electricity" be omitted.

These are special provisions that were proposed to be inserted in this Bill but later on it was found they were absolutely superfluous in view of the Indian Electricity Act; because if any municipality wants to generate its own electricity or to give a contract for generating electricity it can always do so under the Indian Electricity Act. That Act is quite exhaustive but the provisions in this Act are not so. They may come to conflict with the Electricity Act. In any case a municipality will have to depend on the Indian Electricity Act. I therefore propose to omit these words from this Bill so as to enable a municipality to depend entirely on the Indian Electricity Act.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clauses 272, 273, 275, 277, 279 and 280, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clauses 274, 276 and 278.

Mr. PRESIDENT: The question is that clause 274, 276 and 278 stand part of the Bill.

The motion was put and agreed to.

Clause 281.

The PRESIDENT: The question is that clause 281 stand part of the Bill.

The motion was put and agreed to.

Clause 282.

Mr. PRESIDENT: The question is that clause 282 stand part of the Bill.

Babu SATYENDRA NATH ROY: I beg to move that to clause 282, the following be added, namely:—

"and the costs thereof shall be recovered from the owner."

Clause 281 makes provision for the cost of providing a meter but in the case of a meter being out of order no provision has been made for the cost. So it is necessary that some provision should be made as to whether the owner or the municipality should bear the cost of replacing the meter. In my amendment I have proposed that the owner should bear the cost of the meter which is to be replaced if it be out of order.

Mr. NARENDRA KUMAR BASU: I beg to oppose this amendment. It is bad enough for a municipality not to provide the original meter from its own fund. It provides a meter at the expense of the ratepayer which goes bad and then by this amendment my friend wants that the ratepayer should also pay for the replaced meter. I think the principle is a bad one.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I also oppose this amendment.

The motion of Babu Satyendra Nath Roy was put and lost.

Mr. PRESIDENT: The question is that clause 282 stand part of the Bill.

The motion was put and agreed to.

Clause 283.

Mr. PRESIDENT: The question is that clause 283 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that in clause 283 (*1*), in line 2, the word "electricity" be omitted.

I move this on the same ground as stated before.

The motion was put and agreed to.

Rai Bahadur KAMINI KUMAR DAS: I beg to move that in clause 283 (*1*), in line 5, for the words "two rupees" the words "one rupee" be substituted.

If the owner or occupier of a house desires to have a meter tested he may send a written application to the commissioners and such application shall be accompanied by a fee of Rs. 2 and if such meter is found, upon being so tested, to be incorrect by more than two per cent., the said fee shall be returned to the person who sent it. It is rather hard on a man to deposit Rs. 2 at the time of making an application and for submitting an application I think a fee of Re. 1 would be quite enough.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this motion. The commissioners cannot be expected to meet this expenditure out of municipal funds. The fee will be refunded if the meter is really out of order, so it is unnecessary.

The motion of Rai Bahadur Kamini Kumar Das was then put and lost.

Mr. PRESIDENT: The question is that clause 283, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 284.

Mr. PRESIDENT: The question is that clause 284 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that in clause 284 (*1*) (*a*), in line 3 and in clause 284 (*1*) (*b*), in line 1, the word "electricity" be omitted.

4 p.m.

Rai Bahadur KAMINI KUMAR DAS: I beg to move that clause 284 (*2*) be omitted.

Sir, it is very vague and uncertain: how can it be definitely ascertained what means would be artificial, and when it can be said that such means were under the control of the consumer?

If there be any such articles which may cause any such alteration and may be required for some other purpose also and if the consumer happens to possess them for that other purpose, will not the section hold him responsible? Besides, possession of such articles will not only be presumptive evidence which may be rebuttable but shall be evidence by itself. So I submit that this clause should be omitted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. My friend knows very well that if any one is found in possession of implements of house-breaking, he is supposed to be a criminal. Then why should not the same principle be adopted here?

Mr. NARENDRA KUMAR BASU: Sir, I support the amendment. This clause seems to go too far. If there is a fraud detected then of course the existence of artificial means under the control of the consumer would be an offence. Mere possession of the artificial means, when there has been no fraud, should not be considered as an offence.

Dr. NARESH CHANDRA SEN GUPTA: Sir, while I oppose the idea of Rai Bahadur Kamini Kumar Das's amendment, I should like to know, when there is no fraudulent alteration, prevention, abstraction or use, what the existence of artificial means under the control of the consumer shall be evidence of? When there has been any fraudulent tampering already, then the existence of such implements ought to be evidence of his guilt: otherwise not.

Mr. NARENDRA KUMAR BASU: Sir, with your leave I should like to replace Rai Bahadur Kamini Kumar Das's amendment by the following and if the Hon'ble Minister will be pleased to accept it, it will put matters right. I propose to add the following words to clause 284 (*2*):

"Where there has been any such alteration, prevention, abstraction or use".

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am prepared to accept it.

The motion of Mr. Narendra Kumar Basu was put and agreed to.

The motion of Rai Bahadur Kamini Kumar Das was then, by leave of the Council, withdrawn.

The motions of the Hon'ble Mr. Bijoy Prasad Singh Roy were then put and agreed to.

Mr. PRESIDENT: The question is that clause 284, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clauses 285 to 288.

Mr. PRESIDENT: The question is that clauses 285 to 288 stand part of the Bill.

The motion was put and agreed to.

Clause 289.

Mr. PRESIDENT: The question is that clause 289 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: I beg to move that to clause 289 (*1*), the following be added, namely:—

> "only in such premises where the works, pipes and fittings have not been done by unauthorised plumbers, engineers or outfitters holding a license in that particular municipality."

Sir, in municipalities these works are ordinarily done by licensed plumbers or licensed engineers who carry on the work and without them nobody is allowed to do these works. It is laid down in the clause that: "Before a connection for the supply of water from the distribution mains of the commissioners to any premises is sanctioned, the commissioners may cause all the works, pipes and fittings within the premises to be inspected by an officer appointed by them in this behalf."

I want to add the lines mentioned in my amendment. My object is clear. I want to provide that in the cases of those premises where these works have been done by licensed persons, no inspection is required. Only in the case of works done by unauthorised or unlicensed plumbers should the commissioners be given power to inspect. I hope the Hon'ble Minister will accept my amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, the object of my friend in moving this amendment may be good, but it is certainly not in the interest of the municipality. Am I to understand that the municipal commissioners are to be divested of all responsibilities in the matter of water-connection? It means that if there is a collusion between a ratepayer and an authorised plumber, then the municipality will be quite helpless. The ultimate result of his amendment will be that if any work is done by an authorised plumber, the municipality will have no right to inspect the work. The very fact that the work is done by a plumber authorised by the municipality should give the municipality power to inspect the work done by him.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose the motion. Why should the municipality be deprived of the right of inspection? The authorised plumber may do the work imperfectly and it is the duty of the municipality to see that the water-supply rules are being strictly followed.

The motion of Dr. Amulya Ratan Ghose was put and lost.

Mr. PRESIDENT: The question is that clause 289 stand part of the Bill.

The motion was put and agreed to.

Clauses 290 to 294.

Mr. PRESIDENT: The question is that clause 290 to 294 stand part of the Bill.

The motion was put and agreed to.

Clause 295.

Mr. PRESIDENT: The question is that clause 295 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to move that in clause 295 (*1*) (*b*), in line 5, for the words "Act for" the words "Act or" be substituted.

It is a case of printing mistake.

The motion was put and agreed to

Rai Bahadur SATYENDRA KUMAR DAS: I beg to move that after clause 295 (*1*) (*g*) the following be inserted, namely:—

"or, (*h*) if the rate or charges are in arrear for more than one year."

Sir, we have experience in many cases that the turning off of water-connection is very effective weapon for the realisation of dues. When a municipal commissioner is going to be removed for his failure to pay municipal rates and taxes for one year, I do not see any reason why the municipal commissioners should be generous in the case of ordinary ratepayers. Those ratepayers who fail to pay for more than one year should be subjected to punishment in the shape of the turning off of the water-connection. This will have the desired result.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, this is a very primitive punishment which the hon'ble member has suggested. Suppose the water-connection is cut off and there is an outbreak of cholera; who will be responsible for the spreading of the disease for want of water?

The motion of Rai Bahadur Satyendra Kumar Das was then, by leave of the Council, withdrawn.

Dr. AMULYA RATAN GHOSE: I beg to move that in proviso (*ii*) to clause 295 (*1*), in line 2, for the word, brackets and letter "clause (*e*)," the word, brackets and letters "clauses (*b*), (*c*), (*d*), (*e*), (*f*) and (*g*)" be inserted.

I also move that in proviso (*ii*) to clause 295 (*1*), in line 4, after the word "occupier" the words "or owner" be inserted.

Sir, in every case where a private person is concerned, all the sub-clauses provide that notice should be issued on the person concerned. It will be very hard on the ratepayers if action is taken against them without serving them with prior notice, and they will be subject to endless troubles.

4-15 p.m.

It is contemplated that water shall not be cut off or turned off in any case referred to in clause (*e*), unless written notice of not less than 48 hours has been given to the occupier of the premises. Sometimes the occupier of the premises may not be present. In such a case notice should be served on the owner of the premises. That is why my amendment seeks to insert the words "or owner" after the word "occupier". Before actually cutting off the connection or turning off the pipe, it is

necessary that the owner or occupier should be informed again and on such information that the municipality is actually going to cut off the water-connection, the defaulting ratepayer will know that unless he pays and clears up his dues to the municipality, there is no chance of retaining the money, but he will have to pay the money, otherwise the connection will be cut off. If this is pointedly brought home to the ratepayer, it might be that the ratepayer will clear off his dues to the municipality, in which case the cutting off the connection may not be necessary. That is why owners or occupiers should always be informed before the connection is actually cut off. Even when such connection is cut off, the notice will help the occupier or owner of the premises to arrange for supply of water because, if the connection is cut off immediately, the family might suffer from scarcity of water which might lead to cholera and other diseases in the family. That is certainly not a thing which is desirable by the municipality. Their object is the realization of the money and the best way to realise this money would be to inform the parties before actually taking such a severe step as that of cutting off the water-connection and to send notice to the owner or occupier of the premises that on such a date and at such a house the connection will be cut off. When such notice has been received by the occupier or owner of the premises, in 95 per cent. of cases I have seen that people run to the municipal office to clear off their duties. That is why I have moved for the insertion of the words "or owner".

Rai Bahadur Dr. HARIDHAN DUTT: Sir, what I find is that my friend has made a mistake. If he wanted that the water pipe should not be cut off unless sufficient notice was given to the occupier, I can understand that; but what he says in his amendment is that notice should be sent either to the occupier or to the owner. The result of this will be that the municipality might send notice to the owner (who may be living 600 miles away), whom the notice will not reach in 24 hours and will be of no avail to the occupier, who is the man chiefly concerned. His amendment should rather have been "and owner" and not "or owner". I would accordingly rather prefer that the wording as in the Bill should be retained, so that the occupier who is the man vitally interested in the water, and not certainly the owner, might take early steps to pay off the dues. If, however, the occupier happens to be also the owner, well and good. But certainly between the occupier and the owner, it is the occupier who is interested in the water-supply, and if he gets timely notice, my friend's object will be satisfied.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose the amendment. It is the most absurd amendment that I have ever seen. I am not so much interested in the occupier or owner of a certain

premises, but I would ask the mover to go through the several sub-clauses of this clause. What is contemplated in them is that when an owner or occupier has violated certain clauses of this Bill, if, for instance, he has wasted water or has contravened certain sections about the water meter, etc., then and then only does the question of disconnecting water without notice comes in. Why should my friend have this solicitude for a man who has violated any section of this Act? I would ask him to read the provisions of the Bill. The amendment is also quite out of place and quite superfluous. If the occupier of a premises contravenes sections 284, 285, sub-section (*3*) of section 287 or section 291, where it is contemplated that if a man is guilty of a definite offence against certain provisions of the Act, then and then only should water-supply be disconnected without notice and not before that. Why should a municipality be so very lenient towards a man who has violated certain provisions of the Act? I oppose the amendment.

The motions of Dr. Amulya Ratan Ghose were then put and lost.

Mr. PRESIDENT: The question is that clause 295, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

New clause 295A.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to move that after clause 295 the following be inserted, namely:—

Application of the Indian Electricity Act, 1910. IX of 1910.

"295A. Notwithstanding anything in this Chapter all matters relating to the generation, transmission, supply or use of electrical energy in a municipality shall be regulated by the provisions of the Indian Electricity Act, 1910."

Dr. NARESH CHANDRA SEN GUPTA: Sir, I doubt if this new clause is at all necessary. The Hon'ble Minister has not explained how and why it is necessary, and what is there in the Act which may make such a clause necessary. Apart from this clause, the Indian Electricity Act is there, and it will certainly apply whenever any attempt is made by any person or by any municipality to generate electricity in contravention of the provisions of that Act. This will be governed by this Act and there is nothing in the amendment which may in any way strengthen the provisions of that Act. If any provisions of the Electricity Act are violated, action will doubtless be taken under that Act; so, under the circumstances, I do not think this new clause is necessary. So I oppose this amendment.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then put and agreed to.

Clause 296.

Mr. PRESIDENT: The question is that clause 296 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move the following motions that stand in my name, namely:—

that in clause 296 (*d*), in line 2, the words "cables, wires" and, in line 4, the word "electricity" be omitted;

that in clause 296 (*f*), in the last line, for the words "gas or electricity" the words "or gas" be substituted;

that in clause 296 (*k*), in lines 1 and 2, for the words "gas or electricity" the words "or gas" be substituted;

that in clause 296 (*l*), in lines 2 and 4, the word "electricity" be omitted;

that in clause 296 (*m*), in line 2, the word "electricity" be omitted; and

that in the proviso to clause 296 (*m*), in line 3, the word "electricity" be omitted.

The motions were put and agreed to.

Mr. PRESIDENT: The question is that clause 296, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 297.

Mr. PRESIDENT: The question is that clause 297 stand part of the Bill.

The motion was put and agreed to.

Clause 298.

Mr. PRESIDENT: The question is that clause 298 stand part of the Bill.

Maulvi SYED MAJID BAKSH: I move that in clause 298, in line 2, after the words "shall be erected" the words "except on old sites or foundations" be inserted.

This clause prohibits the erection of buildings on old foundations and says that no piece of land shall be used as a site for the erection of a building and no building shall be erected, otherwise than in accordance with the provisions of this chapter, etc., etc. I want to add the words "except on old sites or foundations" after the words "shall be erected", because in most cases perhaps the sanction of the municipality had already been obtained; when a foundation is already there, it presupposes sanction of the municipality; so I do not understand, Sir, why fresh sanction will be required.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I oppose this amendment. An old site is no safeguard, because circumstances might have changed; and also, if this amendment is carried, it will render our building rules ineffective. There is this safeguard already that if a building is commenced within a year of this sanction, then no fresh sanction will be necessary; but this sanction cannot be kept open for a long time, because the site will have become old by that time. I think the provision, as it stands, is quite a sufficient safeguard.

The motion of Maulvi Syed Majid Baksh was put and lost.

Mr. PRESIDENT: The question is that clause 298 stand part of the Bill.

The motion was put and agreed to.

Clause 299.

Mr. PRESIDENT: The question is that clause 299 stand part of the Bill.

Mr. C. C. COOPER: I beg to move that in clause 299, in lines 4 and 5, the words "and shall not be questioned in any court" be omitted.

Like most people, Sir, I dislike litigation; yet I think this clause gives too great a power to the commissioners, which, I think, should be made subject to the ruling of the High Court.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I have heard some of my friends complain that attempts have been made to take away the rights of parties going to the High Court or to any other court, but their cases are left to be finally decided at a meeting of the commissioners. Why should there be a departure from this principle in this particular case? The mover has not explained the reasons. I was

doubtful whether this amendment came from Babu Kishori Mohan Chaudhuri or from Mr. C. G. Cooper. I could not make out what prompted Kishori Babu to take sides with Mr. Cooper in this case. It strikes me that these two hon'ble members are looking at the question from two different points of view. But whatever that may be, instead of discussing the propriety or otherwise of taking cases to the High Court or any other court, I think the cases should be left to be decided by the wisdom of the commissioners.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: In this particular matter, Government have no objection to accepting this amendment, because if there is any difference of opinion on any matter over which parties may like to go to any court, I think they should have the liberty of doing so. I accept the amendment, Sir.

The motion of Mr. C. G. Cooper was put and agreed to.

Mr. PRESIDENT: The question is that clause 299, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

[At 4-30 p.m., the Council was adjourned for prayer and it re-assembled at 4-40 p.m.]

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, may I inquire what the effect of the acceptance of the amendment of Mr. C. G. Cooper will be?

Mr. PRESIDENT: I better not attempt to say what the consequence will be. Perhaps it will be decided by courts of law, if need be.

Clauses 300 to 309.

Mr. PRESIDENT: The question is that clauses 300 to 309 staud part of the Bill.

The motion was put and agreed to.

Clauses 131, 132 and 135.

Mr. PRESIDENT: We may now take up clauses 131, 132 and 135 the consideration of which was postponed on Friday last.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I at this stage state the result of our negotiations? At the outset, I may say that I do not move my amendment No. 1441 to clause 135 about the

constitution of the appeal committee. I understand that the movers of amendments to clause 131 will not move their amendments relating to the appointment of assessors and this was the arrangement to which all the party leaders agreed. In view of this, Sir, I hope the members will not move their amendments.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, may I draw the attention of the Hon'ble Minister very respectfully to the fact that the statement of the Hon'ble Minister does not meet the point of view which I raised, *viz.*, that this legislation was intended not only for the advancement of town areas but also of backward rural areas. Government intends by accepting this provision to have only paid assessors. The object of my amendment was to vest the power of appointing either paid or honorary assessors in the Local Government.

Mr. PRESIDENT: I do not think that these points of dispute over a so-called compromise, supposed to have been arrived at outside the Council Chamber, can be raised here. What I propose to do is to call out the relevant amendments and if what the Hon'ble Minister has said about the compromise is adhered to, these need not be moved.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I have your permission to reply to the point raised by Khan Bahadur Maulvi Azizul Haque in order to clear any misunderstanding that there may be in regard to this matter?

Mr. PRESIDENT: How can I allow you to do so? We are not concerned with what happened outside the Council Chamber.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, will you kindly permit me to move the amendment of which I gave notice the other day? I am handing over the amendment to the Secretary just now.

Babu KISHORI MOHAN CHAUDHURI: Sir, I do now follow the discussion and I do not know the arrangement which has been arrived at. I, therefore, move that clause 131 (*1*) be omitted. I do not think that there is any necessity for the clause.

The motion was put and lost.

Maulvi SYED MAJID BAKSH: Sir, I beg to move that in clause 131 (*2*), in line 3, after the word "shall" the words "unless otherwise decided by them for reasons to be recorded in writing ordinarily" be inserted.

I think the commissioners should be given an opportunity of appointing assessors for reasons to be recorded in writing. By this amendment I give them an opportunity of deciding whether they should appoint or not appoint assessors and the reasons for their decision should be recorded in writing.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. This is directly contradictory to the appeal clause which has been accepted by all.

The motion of Maulvi Syed Majid Baksh was put and lost.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 131 (*2*), in line 4, after the words "a person" the words "or more" be inserted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I oppose this amendment.

The motion of Dr. Amulya Ratan Ghose was put and lost.

Khan Bahadur Maulvi AZIZUL HAQUE: I think this is the proper place for my amendment. I beg to move that after clause 131 (*2*) the following be inserted, namely:—

"(*3*) Notwithstanding anything in this section the Local Government may, in its discretion, at the request of the commissioners at a meeting, appoint, or authorise the commissioners at a meeting to appoint, any person or persons approved by the Local Government with or without salary to prepare the valuation and assessment list of such municipality."

I may tell you, Sir, that I consulted Mr. Basu and Mr. Cooper and they are in agreement with this amendment. I could not get time to consult others. My purpose is that instead of the present provision by which an honorary worker is to be replaced by a salaried man, I am leaving it to the Local Government to appoint the man, with or without a salary.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government is prepared to accept the amendment.

Mr. S. M. BOSE: Khan Bahadur's amendment does not quite agree with clause 131 (*2*), line 5, "on such salary and with such establishment as may be fixed by them, etc." Khan Bahadur's amendment "with or without salary" will mean that an official will be appointed. (Voices: No, no.)

The motion of Khan Bahadur Maulvi Azizul Haque was then put and agreed to.

Mr. PRESIDENT: The question is that clause 131, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 132.

Mr. PRESIDENT: The question is that clause 132 stand part of the Bill.

The motion was put and agreed to.

Clause 135.

Mr. PRESIDENT: The question is that clause 132 stand part of the Bill.

The following motion was, by leave of the Council, withdrawn:—

The Hon'ble Mr. BIJOY PRASAD SINGH ROY to move that for clause 135(*1*) the following be substituted, namely:—

"(*1*) Every application presented under section 134 shall be heard and determined by a committee consisting of the chairman, a commissioner appointed by the commissioners at a meeting and a person appointed by the Local Government."

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 135 (*1*), in line 1, after the words "presented under" the words "and within the time-limit prescribed by" be inserted.

By this amendment, I want specifically to prescribe a time-limit so that applications received after time should not be considered at all, but rejected on princip'e without reference to the committee. Unless it is made clear, applications may continue to pour in after due date, and there will be no limit to the labours of the appeal committee.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment.

The motion of Munindra Deb Rai Mahasai was put and lost.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 135 (*1*), in lines 2 to 4, for the words beginning with "consisting of the the chairman" and ending with "at a meeting" the words "consisting of not less than five commissioners (three to form a quorum) to be called the 'Assessment Appeal Committee' and to be appointed annually by the commissioners at a meeting" be substituted.

According to the Bengal Municipal Act, 1884, the Assessment Committee used to consist of all the commissioners of the municipality except

the commissioner of the particular ward for which the assessment was being heard, and so far as I know, Sir, that was a very reasonable thing. Instead of that if we have now only the chairman with two commissioners, I do not think that justice will be done to the ratepayers. I have heard that assessment appeal committees who were dealing with these committees were not always fair, and that is why if simply a chairman and two commissioners are allowed to decide cases of appeal, then I think more injustice will be done than hitherto. In such circumstances, it may be that in the appeal committee which will consist of the chairman and two commissioners only, those commissioners may not know the conditions of the other wards for which appeals will be heard, and, therefore, the appeal committee under the previous Municipal Act was more convenient for the ratepayers as well as for the municipality. But now it is going to be curtailed to such an extent that instead of all the commissioners, only two commissioners will be taken in on the appeal committee with the chairman, and those ratepayers who are not in the good books of the chairman, their appeals will not be justly heard, and disposed of with such justice as would be expected if more commissioners were present there. That is why, instead of dispensing with the services of all the commissioners on the appeal committee, I have put forward a very modest proposal that only five commissioners should form the appeal committee, and I hope this proposal will be accepted by the House.

Rai Bahadur KAMINI KUMAR DAS: I beg to support my friend Dr. Ghose. I think, Sir, this is a clause which requires modification. This clause says that the appeal committee should consist of the chairman and two commissioners with this proviso that these two commissioners shall not be the commissioners of the ward for which the appeals are heard. This means, Sir, that the chairman who will in almost all cases be a commissioner of some ward will not be disqualified from hearing the application of his own ward, whereas, on the other hand, these two other commissioners will be so disqualified. Whether that is invidious or not, I leave it to the Minister to consider. The Minister has sounded a note of dissent that the commissioners will be in a very embarrassing position because they will not be able to decide properly. I, therefore, say if there be any disqualification, to avoid it, we must have the same distinction in the case of all commissioners. Therefore, as Dr. Ghose suggests, they may consist of five commissioners, two to form a quorum, and the disqualification should apply to the chairman and he may not hear the appeal of his own ward. With these words, I support the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. It will be too big an appeal committee. It has been provided in the Bill that no commissioner of the ward for which

the assessment is being made should sit on the appeal committee, but there are municipalities where the total number of commissioners does not exceed nine. This proposal is that five members should constitute the appeal committee. That provision can never be given effect to; so I oppose this amendment. I need hardly explain the necessity of providing a reasonable number, and that no commissioner representing a particular ward should sit on the appeal committee when assessment appeals of that ward are being heard. It is more than human to expect people depending on the support of voters to be very fair to the municipality against his supporters. So I oppose the amendment.

5-15 p.m.

Babu KHETTER MOHAN RAY: All the commissioners ought to form an appeal committee and it may be that the committee shall not consist of two men only, because two or three of them may be absent or one may be absent and the business of the committee cannot go on. Therefore, there ought to be at least five members. One question raised by the Hon'ble Minister is that sufficient number of commissioners may not be found. The minimum number of the commissioners is nine and at least five out of them will always be available to constitute an appeal committee. Under the circumstances, this being an important measure and when the municipal commissioners will have to consider the assessment appeals, there ought to be at least five persons in this committee to hear objections against assessment. Why there should be such a small committee I do not know. Under the existing law all the commissioners may constitute a committee and there is no limit to the number of persons forming the appeal committee.

The motion of Dr. Amulya Ratan Ghose was put and lost.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 135 (*1*), in line 3, the word "two" be omitted.

This section says: "Every application presented under section 134 shall be heard and determined by a committee consisting of the chairman, and two commissioners (here I want to omit the word 'two') who shall be appointed by the commissioners at a meeting and shall not, in case of a municipality which is divided into wards under sub-section (*1*) of section 18, be commissioners of the ward from which the application is made."

I have no objection to the commissioners from whose wards the applications come being disqualified. That is a reasonable proposal. Under the existing law all the commissioners of a municipality are entitled to hear objections, against assessment, but if this clause is passed, it will be a very difficult thing indeed. Supposing the chairman is the representative of a certain ward from which appeal petitions

are filed, how can he hear the appeals as he will be disqualified under this clause? Then, again, if the number of commissioners be curtailed to two, it will be very difficult for a committee consisting of two commissioners and the chairman to be held. If there be 100 appeal cases and the committee does not sit for want of quorum due to the absence of one or two commissioners, the people will have to go back disappointed and wait till the next committee meets or is reconstituted. This will mean great inconvenience to the ratepayers.

There is another aspect of the case. Supposing that appeal cases from ward No. 2 are heard, and the chairman and the two commissioners forming the committee are representatives of wards Nos. 8 and 9, then they will not be in a position to know the condition of the ratepayers in ward No. 2; so commissioners representing the adjoining wards ought to hear those appeals. The existing provision in the present Municipal Act is very sound and I do not see any reason why that should be changed. Of course changes are sometimes desirable, but changes which make things worse are not desirable.

With these words, I commend my motion for the acceptance of the House.

Mr. H. P. V. TOWNEND: I may perhaps point out that this amendment is extremely vague and it is perpaps for this reason that Dr. Ghose has not been able to find much to say in favour of it. This must be why his speech dealt with very many other subjects which are not covered by his amendment. If we look at the wording of the clause as it would be after acceptance of his amendment, we find the applications would be heard by a committee consisting of the "chairman and commissioners appointed by the commissioners at a meeting". Dr. Ghose has been arguing in favour of the contention that all the commissioners together should be able to hear the appeals. What he wants in his amendment is that the commissioners should be appointed by themselves as commissioners to hear the appeal, which is a very curious wording. As a matter of fact, under his amendment, the commissioners at a meeting would be authorised to choose, if they so wished, only two commissioners to be on the appeal committee; and if they did that, everything in Dr. Ghose's speech would fall to the ground. All Dr. Ghose's arguments about preventing commissioners from sitting on an appeal committee which dealt with cases of their own ward, are entirely irrelevant, because his amendment does not deal with this point at all. None of the points raised in support of his amendment are actually covered by his amendment. I do not think, therefore, it is necessary for me to say anything more against it.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Rai Bahadur SATISH CHANDRA MUKHERJI: I beg to move hat in clause 135 (*1*), in line 3, for the word "two" the word "four" e substituted. The reason why I suggest that the word "four" should e substituted in place of "three" is that in an appeal committee consting of three members including the chairman, if any member does ot come, there will be only two commissioners. There is no provion of any quorum in this clause; the question will be decided by two ommissioners including the chairman; the decision will really be of ne man and if there is difference of opinion between the chairman nd the other commissioners, then the casting vote of the chairman ill govern the decision. Government has said that in certain municialities the number of commissioners is nine, but there are also other unicipalities in which the number is 30; so this provision is applicable o all municipalities and there will be no harm if the number is inreased. If this number is increased, the result would be that the ecisions on appeal objections by the ratepayers will be given by a rge number of persons and not by the chairman's casting vote. I ink, therefore, that no harm will be done and it will not interfere ith or increase business if the number be increased to four.

Dr. NARESH CHANDRA SEN GUPTA: In support of this mendment I want to point out one thing which possibly escaped the ttention of those who drafted the section. According to this clause, very application presented will be determined by a committee consistng of the chairman and two commissioners, but it is not clear whether very application should be determined upon by a separate committee r whether all the applications with regard to the assessment will come p before the same committee. If that is the idea, I take it it is that here will be one appeal committee consisting of the chairman and two ommissioners, then what follows? It makes the clause absolutely unorkable, because those two commissioners who come to the appeal comittee may be commissioners of the ward from which the appeal comes. uppose there are assessments with regard to all the wards and there are pplications from all wards. With regard to some of these applications, ne or two commissioners, who are members of the committee, will certainly be a member who will be disqualified. If that is so, the clause ill be absolutely unworkable.

Reverend B. A. NAG: That shows the importance of nominated nembers.

Dr. NARESH CHANDRA SEN GUPTA: Mr. Nag may read it hat way and I will read it in a different way. If the amendment hich is now suggested is accepted, it would be possible to have a committee which would be capable of dealing with all the applications. Those members of the committee, who happen to belong to the ward

from which any particular application under consideration comes, they cannot *ipso facto* decide on that application, so that there would probably be left at least three members, if not four, who will be able to deal with the application. The position is obscured by the fact that it is not clear whether this committee shall be a committee for all the applications or a committee for each application. If it is implied that for each application there would be a separate committee, then if there be 50 applications, the position would be very difficult for the chairman, who is to be the chairman of every such committee. I think the way out of the difficulty lies in accepting the amendment of four men instead of two.

Babu SATYENDRA NATH ROY: I do not think that if this amendment is accepted that may obviate the difficulty which my friend Dr. Sen Gupta has suggested. But I think there is some vagueness in the wording of the clause as it stands at present, because it must be made clear whether one committee consisting of the chairman and two commissioners will dispose of all the assessment applications or objections are to be disposed of by rotation according to the different wards excluding the ward commissioners. I think the intention of the Hon'ble Minister and the Select Committee is that different committees for different wards from which the ward commissioner will be excluded, will decide the applications. I think there is a vagueness in the wording and it should be made clearer.

Mr. NARENDRA KUMAR BASU: I oppose the amendment. It is not necessary to have five commissioners for the purposes which Dr. Sen Gupta has stated, because even if there were four commissioners with the chairman, all these four commissioners would be commissioners of particular wards and when cases come up from those wards, one or more of them would not be entitled to sit. The fact that three would form a quorum would do no good because each of them as a member of the committee will be entitled to sit and it might be that their absence would make the meeting infructuous.

Then there is the question of competence in the subsequent clause. I think the intention is quite clear from the language of the clause. Supposing that there is a committee consisting of the chairman and two ward commissioners. This committee will sit for the purpose of hearing appeals from other wards than those from which the two commissioners come. In the same way there may be committees with commissioners from other wards. There is no bar to having more than one committee.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. Mr. Basu has fully explained the implications of this clause. The language is perfectly clear and I do not

see there is any room for misinterpretation. The committee will be appointed first and the chairman with B and C will hear application from ward No. 1: the chairman with A and C will hear application from ward No. 2 and the chairman with A and D will hear application from ward No. 3, and so on, and there is no room for any difficulty. Sir, I do not think that the difficulty pointed out by the mover of the amendment will be met by the proposal advanced by Dr. San Gupta. The proposal of the Rai Bahadur is quite unnecessary.

The motion of Rai Bahadur Satish Chandra Mukherji was then put and lost.

Rai Bahadur KAMINI KUMAR DAS: Sir, I beg to move that in clause 135 (*1*), in line 3, after the words "two commissioners" the words "one of whom would be an elected commissioner and another a commissioner nominated by Government and" be inserted.

Sir, I will only say a few words in support of the amendment. If both the commissioners are elected, they may be partial in dealing with their own people and in order to obviate this difficulty, I suggest that one of them should be a nominated commissioner.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I think it should be left to the commissioners themselves whether to select a nominated or an elected commissioner.

The motion of Rai Bahadur Kamini Kumar Das was put and lost.

Mr. H. S. SUHRAWARDY: Sir, I beg to move that in clause 135 (*2*), in line 1, after the words "such committee" the following be inserted, namely:—

> "shall on receipt of the application give notice to the applicant of a time and place at which the objection will be investigated and."

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I say at this stage that Government is prepared to accept this in a modified form, namely:—

That for sub-clause (*2*) of clause 135 the following be substituted:—

"(*2*) The committee shall give notice to the applicant of the time and place at which his application will be heard, and after taking such evidence and making such inquiry as it may deem necessary, in the presence of the objector or his agent if he appears, pass such orders as it thinks fit in respect of the application."

The motion was put and agreed to.

The motion of Mr. H. S. Suhrawardy was then, by leave of the Council, withdrawn.

Mr. H. S. SUHRAWARDY: Sir, I beg to move that for clause 135 (*3*), the following be substituted, namely:—

"(*3*) If the applicant is dissatisfied with the order passed on his objection, he may appeal to the Court of Small Causes having jurisdiction in the place where the land or building in respect of which the assessment has been made, is situated, such appeal to be presented to such Court of Small Causes within thirty days from the notice of the order passed under sub-section (*2*) having been served on the applicant."

Sir, I am a bit encouraged by the reception which my last amendment received at the hands of the Hon'ble Minister. Although I am aware that he is somewhat impregnated with the idea that democracy means that unlimited power should be placed in the hands of the commissioners, I would submit that under clause 135, too much power is being given to the chairman and any two members whom the commissioners may choose. I am told by persons who are conversant with the working of the Bengal Municipal Act, and by some who have been chairmen themselves, that those who are well known to the gentlemen who form the appeal committee get their applications disposed of on a more satisfactory basis, while the burden of heavy assessment falls upon the poor who are not so well known to those gentlemen. Inasmuch as there is no certainty that the elected members of the committee will be absolutely independent—and here I will stress on the benefit of having nominated members—I would on that account have welcomed the amendment which the Hon'ble Minister was to have moved, namely, that there should be somebody nominated by Government on that body. But since he has not moved it, I submit, he should accept my amendment which provides for a further appeal to an independent body. The court will be an independent body and is not likely to be influenced by interested persons like the three gentlemen forming the appeal committee.

Now, Sir, the question that arises is this: will this increase litigation and will it be an inducement to the people to go to court? My own opinion is that it will not do so. Ordinarily people do not lightly go to court and they do not have recourse to litigation unless there is absolute need for it. On the other hand, this will check the vagaries of the assessors. Those who are conversant with the Calcutta Municipal Act will see that the clause I have proposed has been taken from that Act, and in spite of this clause being there, there are very few instances

of assessment cases going to the Small Causes Court. Every six years, or when there is an intermediate assessment, notice of increased assessment is served on the ratepayers, to the extent of double the annual value, and although they are supposed to pay 9½ per cent., as a matter of fact the ratepayers in Calcutta are charged or attempted to be charged as much as 39 per cent. Those persons who are able to approach the Deputy Executive Officer either directly or through lawyers or through ward councillors escape the increased assessment, while those who suffer from a certain amount of laziness permit this double assessment to go through. The result of that is that although the value of the holdings may have gone down, although the value is much less now than what it was in 1919 to 1922, the taxes that are being paid by the ratepayers of Calcutta now are more than what were paid by them in 1922. But fortunately because the clause is there, the Deputy Executive Officer is compelled to look into these matters, as he is afraid that if such cases do go to the Small Causes Court, there will be a scandal, and everybody will know that without any rhyme or reason the annual valuation has gone up twice. The result is that a certain amount of justice is done, and a certain amount of compromise is effected between the executive officer and the party by the latter agreeing to pay a few rupees more. The party feels that if he can get off cheaply, it will not be worth his while to go to the Small Causes Court and pay fees to the lawyers. Therefore, Sir, I do submit to the Hon'ble Minister and the House that if this clause be accepted, the result will be not that litigation will be increased, but that it will act as a salutary check on the vagaries of the assessor and the appeal committee, and the ratepayers will get justice at the hands of the municipal commissioners. If it is not accepted, the committee will do what they like, and the poorer of the ratepayers will have to pay more, while the more fortunate ones will escape.

Mr. NARENDRA KUMAR BASU: Sir, I rise to give my wholehearted support to the amendment. The reasons given by Mr. Suhrawardy are sound, and, as he has pointed out, this provision exists in the Calcutta Municipal Act, and if in the town of Calcutta, where there are easy facilities for running to the Small Causes Court, it has not increased litigation, it will not do so in the *mufussal*. On the other hand, it will be a salutary check on the assessor in the first instance and on the appeal committee, and a provision of this nature is certainly very useful.

Dr. NARESH CHANDRA SEN GUPTA: I support the amendment proposed by Mr. Suhrawardy, though I find a little difficulty in that he has mentioned the Small Causes Court. Under the Calcutta Municipal Act an appeal lies to the Small Causes Court, but the reasons for which such appeals lie to that court in Calcutta do not exactly apply to the

mufassal. There the Small Causes Court is quite different from that in Calcutta. It would have been better if instead of the Small Causes Court, the civil court had been mentioned. If in Calcutta, the Corporation has not been made the final authority in the matter of assessment, and provision has been made for an appeal to the Small Causes Court, there is no reason why in the *mufassal* municipalities, which are not considered to be as progressive as Calcutta is, the people should not have equal, if not much larger, rights of appeal in assessment cases. Only, as I said, it would have been better if civil court had been mentioned instead of the Small Causes Court.

5-45 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. The hon'ble mover and Mr. Basu have compared *mufassal* municipalities with the Calcutta Corporation, but, Sir, neither the ratepayers of the *mufassal* municipalities nor the municipalities themselves stand in the same position. The resources of the *mufassal* municipalities are very slender and if half a dozen rich ratepayers choose to go to the civil court and rates are not realised in time, I am afraid these municipalities will have to close their doors and to go to the bankruptcy court; whereas in Calcutta ratepayers, however rich they may be, do not venture to come in conflict with the Calcutta Corporation, considering its huge resources; that is a very strong safeguard in favour of the Corporation.

Moreover, I think clauses 124 and 127 are sufficient safeguards against any hardship. If the commissioners find that there is great hardship in a particular case, they can always reduce the assessment under clause 127; or if they find that assessment has been incorrectly made in a particular case, they can reduce it under section 124. I would request the House accordingly to leave things as they are. There is such a provision in the existing Act and it has worked quite satisfactorily. I would like to inform the hon'ble members, especially the mover, who, I dare say, has got the same experience of *mufassal* municipalities as some members who are directly connected with them, that if this amendment is accepted, its effect on the finances of the small *mufassal* municipalities will be disastrous and the duties that are now imposed on the municipalities will never be fulfilled, because they will not be able to get a speedy realisation of their dues. If the rich ratepayers of a municipality always take it into their head to go to the civil court, matters will be very difficult for the municipality and they will be thrown into a hopeless and helpless position.

Babu KHETTER MOHAN RAY: Sir, I also oppose the amendment on the ground, as the Hon'ble Minister has himself said that the resources of municipalities will be crippled and they will be bankrupt if

they have to defray the cost of litigation over the realisation of their dues. If dues are not realised in time and if municipalities have got to go to court over this matter, their income will be greatly reduced and they will not be able to do their duties properly. I also apprehend another difficulty if this amendment is accepted. In most cases in the municipalities there are no munsifs having the power of a Court of Small Causes. Besides it would be increasing litigation, if this amendment were accepted. So I oppose the amendment.

The motion of Mr. H. S. Suhrawardy was then put and a division taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Syed Raushar.
Armstrong, Mr. W. L.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Muhammad.
Forrester, Mr. J. Campbell.
Ghose, Dr. Amulya Ratan.
Hossain, Maulvi Muhammad.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Leeson, Mr. G. W.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Petre, Mr. B. F.
Rahman, Mr. A. F. M. Abdur-.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemoni.
Ray, Babu Hariharan.
Ray, Babu Satyendra Nath.
Ray, Mr. Sarat Kumar.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Solaiman, Maulvi Muhammad.
Suhrawardy, Mr. H. S.
Thomas, Mr. M. P.

NOES.

Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammad.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chatterjee, Mr. S. C.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Cospinger, Major-General W. V.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Ensufji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Sunil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Hague, Khan Bahadur Maulvi Asizul.
Henderson, Mr. A. G. R.
Hodge, Mr. J. D. V.
Khan, Maulvi Amin-ur-Zaman.
Khan, Mr. Nazaur Rahman.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Raheem, Mr. A.
Rai Mahasai, Manindra Deb.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Saadatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarkar, Babu Nead Bhat.
Sen, Mr. B. R.
Singleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 33 and the Noes 50, the motion was lost.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 135 (3), in lines 2 and 3, the words "and shall not be questioned in any court" be omitted.

Sir, it has been my experience that wherever the Appeal Assessment Committee has decided, it appears that there are a large number of ratepayers who have a real cause of grievances which are not redressed. There are a large number of poor and illiterate ratepayers in many municipalities who are not even known either to the chairman or to their commissioners; so they cannot approach them or in the Assessment Appeal Committees explain to them their reasons and grounds and where they cannot do that, the result is that their cases are not justly dealt with. It has also been my experience that where commissioners have been elected on party ticket and form the majority in a municipality, the people who had the courage to stand against that party have often to pay the penalty of their action when the hearing of appeals against them are heard by the majority party. It is quite natural that the majority party should elect a chairman of their own and also elect chairman of their own party to preside over Appeal Assessment Committees and hear appeals.

6 p.m.

The result of this will be that the people who had the temerity to stand against them in elections will have to pay a penalty for their folly with the result that they will have to pay much larger taxes than those to be paid by the people who had supported the majority party at elections. I also know of cases where big European firms were assessed heavily and if they had taken their cases to the law courts, they would have got certainly much relief which they did not receive at the hands of those whom they did not care to influence or to approach. It has been said that clause 127 affords some relief and that the ratepayers who are aggrieved with the decision of the appeal committee can take shelter under the clause. But that is merely a false hope, Sir, because the commissioners who sit on the appeal committee do deliberately and intentionally a wrong to a certain ratepayer or a body of ratepayers. Then how can the aggrieved party get any relief at the hands of the same commissioners? Again, in clause 127 it is contemplated that whenever, from the circumstances of the case, the levy of a rate or rates on any holding in the municipality would be productive of excessive hardship to the person liable to pay the same, the commissioners at a meeting may reduce the amount payable on account of such holding or may remit the same. It is a most impracticable thing, Sir. It rather corresponds to section 106 of the existing Bengal Municipal Act which says that when a ratepayer is in indigent circumstances and applies to the commissioners his case will be considered by the commissioners at a meeting and the commissioners, if they think fit, may exempt the

party from paying the tax or reduce the tax by half. Sir, it is a section analogous to section 106 in the existing Bengal Municipal Act. But a respectable or a big party will not like to take shelter under that section. Sir, it has been said by the Hon'ble Minister that if this provision be accepted, *mufassal* municipalities will be ruined. Sir, there is no such section or clause in the existing Municipal Act and I do not know whether any *mufassal* municipality has been ruined by litigation brought forward by any ratepayer. Sir, this is a sort of tyranny on the part of the majority party and the ratepayers ought to have some relief or some authority to whom they can prefer an appeal and the injustice redressed. Of course, Sir, I admit that in the case of some *mufassal* municipalities, it is somewhat possible, but there are some *mufassal* municipalities where the ratepayers suffer. This matter has been conveniently tackled by Government, *viz.*, when one provision benefits the major municipalities, the cases of minor municipalities are brought forward and it is said that benefits will accrue in the case of major municipalities alone. When the case of minor municipalities is brought up, the questions of major municipalities are brought forward just to obviate the case of minor municipalities. That is a sort of argument we have heard in this House, Sir.

Mr. W. H. THOMPSON: Sir, I rise on a point of order. From the arguments advanced by the mover, it seems that they refer to the matter which the House had just decided. So I think the motion is out of order.

Mr. PRESIDENT: But this amendment is altogether different from the one which the Council has rejected. Because the mover has advanced arguments that were employed with regard to the amendment which has been thrown out, he should not be ruled out of order. So long as his arguments, old or new, are relevant to the amendment now before the House, he cannot be stopped.

Dr. AMULYA RATAN GHOSE: Sir, it has always been my view that the inherent right of a ratepayer to sue in the law courts should not be taken away by any legislation and I would make this appeal through you, Sir, to the members of the House that this right should not be taken away and that the chairman or the commissioners should not be given the final power in this matter. With these observations I commend my motion to the acceptance of the House.

Babu KHETTER MOHAN RAY: Sir, I beg to support the amendment, but not on the grounds advanced by the mover. I do not think I have any sympathy with the grounds advanced by him. In the original Bill we find that "the decision of the committee or a majority of the members thereof shall be final" and this clause was amended by

Select Committee by the addition of the words "and shall not be questioned in any court". Sir, under the present law, so far as I remember it, the decision of the committee shall be final and on this point there has been a ruling. When the commissioners have conformed themselves to the procedure laid down by the Act, their decision will not be questioned in any court of law; but when the commissioners go against the law or does anything *ultra vires*, then the civil court may reopen the question of assessment and see whether there has been a basis for assessment. In other words, the civil courts have power to interfere when the commissioners act in contravention of the law or act in any way without jurisdiction. Now, if these words are added, *viz.*, "and shall not be questioned in any court", it amounts to ousting the jurisdiction of the courts. There are cases where the municipal commissioners act in an irregular way and are mistaken in their assessment, that is, their decisions may be influenced by fraud or collusion or something else; in spite of these things, the civil courts have no jurisdiction over the assessment of commissioners; but when the commissioners act against the law and *ultra vires*, then the civil courts have jurisdiction to go into the question. But if these words are added "and shall not be questioned in any court", then when the assessment is *ultra vires*, such as, when any person is assessed in respect of any holding which is not in existence, then it is *ultra vires* and when a person is assessed in respect of a holding which is in existence but of which he is not the owner in that case it is *ultra vires*, because there is no basis for assessment. These are the two classes of cases I put before the Council and I think by adding these words we are going to oust the jurisdiction of the civil courts in every case. Therefore, I oppose the addition of these words and say that these words should be deleted. The Hon'ble Minister has said that the deletion of these words will increase litigation. I do not think that this will happen; the civil courts would not have any jurisdiction whatever in cases in which municipal commissioners may be wrong or mistaken in their assessment or where the assessment is excessive and hard; only in cases in which the municipal commissioners have no jurisdiction whatsoever to make assessment under the law, that is to say, only in those cases in which assessment is *ultra vires* and in those cases only the jurisdiction of the courts will not be ousted. I would request, Sir, the Hon'ble Minister to accept it on the analogy of another amendment moved by Mr. Cooper, which has been accepted. I think it is more urgent than the amendment moved by Mr. Cooper. With these words, I propose the deletion of the words and support the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. These words make quite clear the meaning of the section that a decision of the commissioners shall be final; that is

the present law and it has been made clearer by the Select Committee by the addition of these words. Sir, in cases where the assessment is *intra vires*, it cannot be questioned in any court; if it is *ultra vires*, it can be questioned; and I do not think that by the addition of these words the right of appeal to a civil court can be taken away. So, what we want to make clear is that if it is *intra vires*, it should not be questioned in any court and there are several rulings on this point. This clause is based on sections 15 and 16 of the existing Act. So, nothing new has been introduced; if my friends had cared to go through the existing Act and the various changes brought about in this Bill, then so much time of this Council would not have been wasted. There has been no change at all and we have merely tried to make the meaning of the section clearer.

6-15 p.m.

Mr. NARENDRA KUMAR BASU: I am sorry that the Hon'ble Minister has not interpreted the amendment and the clause correctly. He seems to have said that there has not been any change in the law and he seems to think that the addition of the words "and shall not be questioned in any court" merely gives a finality to the decision of the commissioners. With great respect to him and his legal advisers, if any, I say he is absolutely mistaken. The reasons advanced by Babu Khetter Mohan Ray are absolutely correct. If you leave it as it was in the old Act and as it was in the original Bill that the decision of the committee shall be final, that means that it is final so far as the municipality is concerned, and unless you have these words repealed, you will be going against the provisions of the Specific Relief Act enabling a person to have the assistance of the civil court to declare a decision passed by the commissioners to be *ultra vires*. As Mr. Ray has pointed out, supposing that an appeal committee says that A is to pay so much for the tax on holding X. If A is not the owner of the holding X, there would be no remedy unless these words are deleted. If he does not pay the rates and taxes for the holding X, the provisions of the Act or some other penal provisions or other provisions of the law will be enforced against him, and he will have no remedy. Unless these words are deleted, the real intention of the Hon'ble Minister which, he says, is not to make any alteration in the existing law, that intention, I think, will be nullified. I think for the purpose of making the intention of the law clear and to demonstrate that there is no intention of the Hon'ble Minister to change the law as it now stands, this amendment ought to be accepted.

Mr. H. S. SUHRAWARDY: I find myself in agreement with Dr. Amulya Ratan Ghose, and I support the amendment. One of the reasons is that I do not like the naked word "court" to be used in

reference to a court of justice in this Bill, and it is not at all appropriate that a legislative body like this should use the word "court" in its enactment instead of the words "court of law". I hope the Hon'ble Minister will bring an amendment towards the end of the discussion or whenever he likes that wherever the word "court" has occurred in this enactment, the words "court of law" should be substituted. In the second place, I am not at all impressed by the argument that persons will resort to the courts to harass the municipality and make the municipal administration impossible. When the richer people of the Calcutta Corporation do not resort to the Court of Small Causes except in the rarest of instances, it is not to be expected that the poorer people living in *mufassal* municipalities will go to a court of justice whenever they find that they have a grievance or for the purpose of harassing the municipality. I shall, moreover, throw a bait out to the Hon'ble Minister and his legal advisers. I shall tell him of a municipality which is controlled to a large extent by members having anti-Government tendencies, and they have assessed the Government buildings within their jurisdiction at their full annual value, and when the Collector of that district wrote to the municipality protesting against the assessment, he was informed in due course that his application was time-barred. Now, in cases of that nature, surely it is proper that there should be a remedy, and that the commissioners of a municipality who are actuated by various motives some of which Dr. Amulya Ratan Ghose has related and with which he is more familiar, should not have the final word. I have been told or rather that has been cast at me that I am more or less a Calcutta man and I do not know the working of the Bengal Municipal Act, but, as I pointed out before and I repeat it now, I have spoken to various gentlemen, chairmen of municipalities who are not so very anxious to have absolute autocratic powers in their hands and who are sympathetic towards the people, and they feel that a considerable amount of injustice is done when a final decision is left to a small committee. I have spoken to them, and they are of opinion that surely it ought to be left open to anybody that he may go to a court of law whenever he has been unjustly dealt with.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government is fully convinced by the argument of Mr. Suhrawardy and Mr. Basu, and I am prepared to accept the amendment.

The motion of Dr. Amulya Ratan Ghose was then put and agreed to.

Mr. PRESIDENT: The question is that clause 135, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 153.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I propose to move the amendment of which I gave notice and which I took time to examine.

I beg to move that in clause 153, line 4, after the word "Government" the words "or of the rent (if any) due to a landlord under the Bengal Tenancy Act, 1885" be inserted.

Sir, in moving this amendment I may make it clear that by introducing this thing we do not really mean to alter the law, as it stands. The law, as it stands, is this that whenever the Bengal Tenancy Act applies in a *mufassal* municipality, the rent gets a priority over all other charges except revenue, and we simply want to emphasise that provision. This clause has been moved for that reason and the amendment is clear. We do not want to introduce anything new into the law, as it stands.

Babu KHETTER MOHAN RAY: I also support the amendment. The other day——

Mr. PRESIDENT: Can you throw any new light upon the matter or advance any new argument in respect thereof?

Babu KHETTER MOHAN RAY: I want to speak by way of supporting the amendment.

Mr. PRESIDENT: I think that is not very necessary.

Khan Bahadur Maulvi AZIZUL HAQUE: I am sorry, as I said the other day when the Hon'ble Minister moved an amendment of this nature, to oppose this amendment at this late stage. As I explained to him fully the other day that a municipality has a right to, subject only to the State demand for a priority. That is a well-known fundamental principle which has been accepted——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: That is not a correct statement of law, I may point out to the Khan Bahadur.

Khan Bahadur Maulvi AZIZUL HAQUE: I am not interpreting the law because law is abrogated by another law, and law is demolished by another law, and, therefore, I think there is no special virtue in being told that it is the law. There are above the law certain fundamental commonsense and questions of public policy and all that; and

that public policy is whether we are going to do away with the rights of municipalities and bring in rights of private parties. I ask my hon'ble friend with what justification he says that if a property is mortgaged, there would not be a priority. Supposing a property was mortgaged, say, about five years back, and you are giving the right of priority to that mortgage, then you are simply putting in a right to get the rent and the revenue before the liability is paid off. Therefore, I say to you, Sir, the position is this that in between "the public demand of a municipality" you are bringing "the right of a landlord to get his rent". Rent is a very vague expression because in this country unfortunately there is so much hierarchy of landlordism that it may be quite possible that a particular plot of land has now got ten landlords before actually the cultivator is reached. Am I to understand that because from a plot of land Government has to get his revenue, the cultivator who is actually in possession of the land must have to pay the rents of all the ten landlords above him before the municipality can step in? I hope my friend does not want to convince me that every bit of rent has to be paid up before the municipality is to get its rates. As Mr. Basu has pointed out, the position is that the only thing that gets a priority is the State, but I want to know by what canons of jurisprudence a private liability has to be paid before the municipal taxes are paid. I think, Sir, that is contrary to all principles, and though I am quite prepared to accept it, I want to point out that once you introduce it, it will bring in complications of a hopeless nature and nullify the intentions of the mover.

Babu BENOD BIHARI SARKAR: May I take the liberty of explaining the position to the Khan Bahadur and may I ask for the indulgence of this House which contains some of the greatest lawyers of Bengal if I tread over the rather unfamiliar ground of rent law? The Bengal Tenancy Act of 1885 extended to the whole of Bengal, except Calcutta, and except any area constituted a municipality under the provisions of the Bengal Municipal Act of 1884 or part thereof, and specified in a notification on this behalf by the Local Government. But no notification was ever published by Government exempting any municipal area from the operation of the Bengal Tenancy Act. The reason is that Government considered that no notification should be issued by which the agriculturists who held lands within the municipal areas should be deprived of their rights and privileges, and also of the protection given to them by the Bengal Tenancy Act. As a matter of fact, there are agricultural lands almost in every municipal area outside Calcutta and that explains why no notification under the Bengal Tenancy Act was ever issued. Then this law was changed by the amending Act of 1929. There it is stated that the Bengal Tenancy Act should extend to the whole of Bengal except Calcutta and lands other

than agricultural lands constituting a municipality. That means that an agricultural land shall always remain under the operation of the Bengal Tenancy Act. The fundamental principle of revenue administration is this that land revenue should form the first charge, that is to say, that landlords who hold land directly under Government should pay land revenue at fixed periods of the year and land revenue should be the first charge on their *zamindari*. In order to enable the landlords to pay land revenue on or before the dates fixed, it is necessary to provide that they should get their rents from the tenants and that between the landlord and the tenant, rent should be the first charge. One is the corollary of the other.

6-30 p.m.

Rent, therefore, must continue to be the first charge on agricultural land. This has been laid down by section 65 of the Bengal Tenancy Act, where it is clearly stated that rent shall be the first charge on the land held by an agriculturist under a landlord When clause 153 was drafted, it was probably overlooked that almost in all the municipalities in Bengal there are agricultural lands. It was, therefore, laid down that municipal rates on holdings should be the first charge, after land revenue. It was overlooked that in respect of agricultural lands in municipalities, such a provision would override the provision of the Bengal Tenancy Act. Government consider that the existing law of the land regarding landlords and tenants should not be changed during the discussion of a clause of minor importance in connection with the Bengal Municipal Bill. Landlords should remain as they are and that is the reason why this amendment has been proposed. This means no change whatsoever; only the existing law is maintained and Government think that in a matter like this the principle which has been followed by Government for nearly 150 years, that is, ever since the Permanent Settlement, should not be departed from in a hurry.

Mr. NARENDRA KUMAR BASU: I beg to support this amendment. I do not think Mr. Sarkar is quite right when he says that the provisions of the Bengal Tenancy Act were overlooked when this clause was drafted, for it is not absolutely necessary in law to put in these words in order to enable the landlord to realise his rent under section 65 of the Bengal Tenancy Act. That action is not one of the sections proposed to be repealed by this law. The rent is the first charge even if those words were not put in this section; my submission is that in order to make this provision clear in municipal areas, these words ought to be put in and I see no reason to oppose this.

The reason given by my friend Khan Bahadur Azizul Haque with regard to the hierarchy of the landlords in the *mufussal* has not much in it. My friend knows very well (I shall not say that he was

deliberately misleading the members) that the Bengal Tenancy Act has worked very well in spite of the hierarchy of landlords in the *mufassal*. My friend knows very well so far as the rent under section 65 of the Bengal Tenancy Act is concerned that it would be, subject to Government revenue, the first charge. There is no question about that and there will be no difficulty as there has been none so long. This amendment only seeks to make the provision clearer and to clear up the ambiguities which might exist if the words were not there and if the section 65 of the Bengal Tenancy Act were not repealed by this Act.

Dr. NARESH CHANDRA SEN GUPTA: I regret I have to differ from my friend Mr. Basu and oppose this amendment. Apart from the question of law or principle, with regard to rent, I think, what Khan Bahadur Azizul Haque has said has a great deal of substance in it. I think there is a grave reason of public policy why this addition should not be made.

With regard to law it is not only in connection with the agricultural land that rent is the first charge but it is so even under the English Law, also in respect of non-agricultural land which is also subject to public charge. The words "subject to public charge" include not only the charges in favour of the Central State but also other public bodies which exercise delegated powers of the State. There is a public policy why municipal taxes also should form a charge on a property. Apart from this principle there is the question of practical politics. If you are going to postpone the municipal rates to land revenue, you know exactly what you are providing for. Land revenue is very definite and is realised regularly and no arrears are left. You know exactly how land revenue is collected, but the realisation of rent is absolutely uncertain. Rents may be in arrears for years, at any rate for four years, and when a municipality goes to attach a house to recover the rates that have fallen due by a sale of the holding, they may find a landlord claiming rent for four years, which exceeds the value of the holding. What will happen then? If the rent is made the first charge after the property is sold for arrears of rent, the municipality will lose all its taxes. The municipality cannot realise it from the holding; it can realise it from the person. You are substituting a very uncertain thing in place of a public charge of the municipality.

[At 6-35 p.m. the Council was adjourned for prayer and it reassembled at 6-45 p.m.]

Mr. S. M. BOSE: Last Friday I in my ignorance opposed the Hon'ble Minister's amendment. Since then I have had occasion to look into the Bengal Tenancy Act, one of few Acts of which I know absolutely nothing, and I am now convinced that as section 65 of the

Bengal Tenancy Act does make the rent the first charge, so it is absolutely essential that an amendment should be made in this Act, to provide against any possible conflict.

Maulvi SYED MAJID BAKSH: As regards the amendment, I have my honest belief that the reasons that have been given before me are enough and sufficient. The only thing I would point out is the practical difficulty which will arise if this section remains as it is. I might point out to my friends that I have very little respect for the landlord's rent or for the municipal arrears, because both of them are equally ravenous for the poor tenant. I will place this for the consideration of the House that as long as section 65 of the Bengal Tenancy Act prevails, rent will remain the first charge on the holding and unless and until that section is repealed, it will remain so. If this section stands without the amendment in the new Bengal Municipal Act, it will make the municipal rate the first charge. Suppose a landlord attaches same holding and the municipality attaches the holding for their respective dues and both sell the property; one is purchased by A and the other by B. Whom it will belong to? If both are the first charges, to whom this holding will belong? Who will be the real purchaser? So there will be practical difficulty.

Maulvi TAMIZUDDIN KHAN: I rise to oppose this amendment. If it is a correct view of law that even without this amendment the Bengal Tenancy Act will make rent the first charge on all holdings within a municipality, then I do not see any reason whatsoever for bringing forward this amendment. If this amendment is not carried, I do not think rent will still be the first charge upon a holding because the Bengal Tenancy Act is a general law and so far as this Bill is concerned, it will be a special law. This amendment goes further than the Bengal Tenancy Act because under the Bengal Tenancy Act rent is first charge only upon a holding, but this amendment will make the rent a first charge not only on the holding but upon the movables of the defaulter. The vicious principle which is going to be introduced here will in its application go further than the Bengal Tenancy Act. One of the arguments put forward in support of the amendment is that the law is very drastic so far as realisation of land revenue is concerned, and as such the landlords also should be given some drastic means to collect rents from their tenants, but the thing is as Khan Bahadur Maulvi Azizul Haque has said there is a hierarchy of landlords,—there are tenure-holders and under them subordinate tenure-holders and under them, the *raiyats*. According to this amendment in each of these cases the rent will be the first charge. I think the *zamindars* will not be losers in any way if this amendment is lost. I have never come across

a landlord who merely depends upon a certain number of holdings in a municipality and even if the small rent which he is entitled to from such holdings is not realised in time he will be under no difficulty on that account. There seems to be, therefore, no valid reason why the Government should introduce this obnoxious principle of subordinating public dues to private demands.

Rai Bahadur SATISH CHANDRA MUKHERJI: I support the amendment. I think it is fair to the *raiyat* that this amendment should be made. It is nothing but laying down what the courts will undoubtedly decide, namely, that the landlord or any purchaser can purchase any holding in execution of a rent decree and become the actual owner of that property.

7 p.m.

As previous speakers have pointed out, section 65 of the Bengal Tenancy Act will always remain, and instead of compelling the *raiyats* to go through the various law courts in order to have the question settled, it is but fair that this House should decide this question; and this is undoubtedly the law, namely, that section 65 of the Bengal Tenancy Act should act. I do not understand Maulvi Tamisuddin Khan's argument that this gives the first charge upon movables also. It does nothing of the kind. Instead, it says that the rents should have the first charge. The rent charge will always remain and it is not being extended by the provisions of this Act, and it is also fair that the rent charge should have precedence over service rates under the Bengal Tenancy Act.

Mr. H. P. V. TOWNEND: Sir, I have no intention of stepping into the debate as an expert in law, because I recognise that I am not. I should like to speak from a practical point of view. The very fact that there has been a keen debate in this House on this clause proves the necessity for some amendment to it. As it stands, obviously the House thinks, it is not clear. Several eminent lawyers have given their opinion that section 65 of the Bengal Tenancy Act undoubtedly, in any case, gives to the clause the meaning which we seek to give it by the present amendment; while several others say that it does not. The argument of the members who oppose this amendment is very theoretical. They oppose the amendment: but they have put forward no alternative amendment which would secure the object for which they argue. Suppose this amendment fails, what will be the result? The result will be a doubt whether the municipality will be able to collect its rates before the landlords get their rents: it will not give the municipality the priority. It will lead to obscurity. As is evident from the

amendment, Government wants to have this cleared up and it prefers that the law, as it stands, should be continued. At present in a municipality the landlords have the priority of claim for the rent of lands under the Bengal Tenancy Act. Government considers that this should continue. That is a logical and simple attitude. The clause, as it stands, is certainly not simple and clear, and so Government have put forward this amendment in order to make it clear.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then put and a division taken with the following result:—

AYES.

Armstrong, Mr. W. L.
Austin, Mr. J. M.
Baksh, Maulvi Syed Majid.
Basu, Mr. Narendra Kumar.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chaudhuri, Babu Kisheri Mohan.
Chowdhury, Hoji Badi Ahmed.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Sunil Kumar.
Ghose, Dr. Amulya Ratan.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Mr. P. N.
Henderson, Mr. A. G. R.
Hodge, Mr. J. D. V.
Khan, Maulvi Amin-uz-Zaman.
Khan, Mr. Razaur Rahman.
Leeson, Mr. G. W.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Reid, the Hon'ble Mr. R. N.
Rose, Mr. J.
Ray, Babu Satyendra Nath.
Roy, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Ray, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Samad, Maulvi Abdus.
Sarkar Babu Beoed Bihari.
Sen, Mr. B. R.
Stapleton, Mr. H. E.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Banerji, Mr. P.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Muhammad.
Haque, Khan Bahadur Maulvi Azizul.
Khan, Maulvi Tamizuddin.
Ray, Babu Amulyadhan.
Sen Gupta, Dr. Naresh Chandra.
Suhrawardy, Mr. H. S.

The Ayes being 50 and the Noes 8, the motion was carried.

Rai Bahadur SATISH CHANDRA MUKHERJI: Sir, I beg to move that in clause 153, in lines 5 to 8, the words beginning with "and upon the movable property" and ending with "belonging to the said person" be omitted.

The reason why I move this amendment is that this clause is going to give the first charge for any rates under this Act upon movable

property and so on in addition to the first charge on the holding. The holding in many cases, or practically in all cases, will be more than sufficient to cover the rates. The rates, as we all know, with the exception of the rate on holdings, consist only of service rates, such as latrine rate, water rate, lighting rate, etc. The question is whether it will be right and proper to extend this provision about first charge, which is being introduced for the first time in this Bill, to movables also. I submit, Sir, that this is quite unnecessary and will be a great interference with private rights, and having regard to the fact that it will probably, at least in the first instance, not be necessary in hundred cases out of hundred, I think that this provision should be omitted.

Dr. NARESH CHANDRA SEN GUPTA: I support the amendment. I do not exactly understand what is meant by first charge on movables. Does it mean that the owner will not be in a position to sell them? Or if he sells them, the municipality will go to the purchaser and take them back in the exercise of this first charge. That is a thing quite unknown to law. With regard to movables, unless the hypothecation is accompanied by possession, there is no process of law by which the charge-holder can be given priority. What then is the sense of this first charge on movables?

Babu KHETTER MOHAN RAY: Sir, it is ridiculous to suggest that the municipal rates should be the first charge on movables. This will be unworkable under the law and will lead to litigation. We have not heard of a charge on movables in law. Law contemplates lien on movables, but the movables must be in the custody of the person who claims lien over them. I do not know how the so-called charge can be enforced against the movables which are in the custody of the owner or occupier. I, therefore, support the amendment.

7-15 p.m.

Mr. H. P. V. TOWNEND: In view of the fact pointed out by the members on the other side of the House, that there will be difficulties in connection with this provision; and as it has also been suggested that there might be a possibility of malpractices in consequence of it; and in view of the fact that section 146 gives a municipality power to proceed against movable property, Government are prepared to accept this amendment.

The motion of Rai Bahadur Satish Chandra Mukherji was then put and agreed to.

Dr. AMULYA RATAN GHOSE: I beg to move the following motions:—

That after clause 153 the following be added, namely:—

"Provided that there shall not be a first charge upon the land included within the holding and on which there is a dwelling house or structure erected, owned, occupied or possessed by a *ticca*-tenant and the municipal rates assessed for the said house or structure included in the holding are due and unrealised."

That after clause 153 the following be added, namely:—

"Provided that there shall not be a first charge upon the land belonging to the landlord and included in the holding, for the municipal rates assessed for the houses or structures belonging to a person other than the landlord and included in the holding for which the rates are due and unrealised."

That after clause 153 the following be added, namely:—

"Provided that there shall not be a first charge upon the land of a holding upon which there is a dwelling house or structure erected, owned, occupied or possessed and constituting the holding for the rates, other than the holding rate, which are due and unrealised."

That after clause 153 the following be added, namely:—

"Provided that there should be rateable distribution of the sale-proceeds of (arising out of the first charge created) the assets of the *ticca*-tenant for whose default and non-payment of the rates, assessed for the houses erected, owned, occupied or possessed, the first charge is created, among the municipality and the landlord of the land, included in the holding, who has obtained a decree in civil court, against the owner or occupier of the house or structure, constituting the holding, for non-payment of rent for the holding to the landlord."

Sir, I would like to say that the first charge has not got the first claim upon the land. That should be met after realising the rent from the properties of the man actually in debt which is not yet realisable. Then and then only the first charge should come upon the land on which the structure stands. This is a matter which, I think, does not come under the Bengal Tenancy Act. In a town like Howrah and other towns where the Bengal Tenancy Act does not operate, the landlord should not be penalised for the default of a *ticca*-tenant who occupies the land as a tenant by constructing huts or other structures on it. Supposing A has got two *bighas* of land in some part of the Howrah Municipality; and over that land there are 50 *ticca*-tenants who have got their own huts

and structures built upon that land on a certain rental per year. In that case if a tenant becomes a defaulter to the municipality, the municipality ought to realise rates and taxes from the structures that will be found built on that land; and so long as the municipality can realise rates and dues from the properties standing on that land, the rent should not be held to be the first charge on the land. It is rather a punitive clause upon the landlords. They are not given the privilege to collect the taxes. Nor are they in any way given an opportunity to know whether the tenants are paying taxes to the municipality or not, but the only thing that they come to know is that their land is going to be sold—not for their fault, but for that of their tenants. Sir, I fail to understand why landlords should be made responsible when the collection is not in their hands. Surely, Sir, it is a very unreasonable thing to make landlords responsible for the dues of their tenants. When the Education Bill was before us about a couple of years ago, the duty was going to be imposed upon landlords for the collection of the education cess, and to hold them responsible for that, to which they vehemently objected, but in this case landlords are quite in the dark as to whether their tenants are paying rates or not to the municipality. Therefore, Sir, in all fairness, it is unreasonable and unjust to make landlords responsible for a matter over which they have got absolutely no hand.

Mr. H. P. V. TOWNEND: I rise to oppose these amendments. One of our main difficulties in examining these amendments was that we were unable to understand their intentions. Does the member ask us to accept any one or all of them? What would the clause mean if all were accepted, or if one were accepted, for that matter? The member says in effect that the rates will be a first charge so long as they are a second charge. What sense is there in this? The first of the amendments says that when a building is "occupied" by a *ticca*-tenant, what security will the municipality have if the amendments are accepted? The rates will not be a first charge. How many buildings are not "occupied" by *ticca*-tenants in a municipality? The provision is absurd. These can hardly be considered and dealt with as serious amendments. The member himself seems not to have thought out his amendments at all but seems to have only given expression to three beautiful thoughts and to have left it to the House to select one of them and to try and make sense out of it. I think it is no use making a long speech on such things as these. On behalf of Government I oppose these amendments, Sir.

The motions of Dr. Amulya Ratan Ghose were then put and lost.

Mr. PRESIDENT: The question is that clause 153, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 202.

Mr. PRESIDENT: The question is that clause 202 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that after sub-clause (*a*) of clause 202 the following be inserted:—

"(*aa*) prescribing the procedure to be followed by a committee appointed under sub-section (*1*) of section 135 to review an assessment or valuation."

The motion was put and agreed to.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that for clause 202 (*c*) the following be substituted, namely:—

"(*c*) prescribing the conditions and limitations under which a license may be granted for the purpose of a tax on the trades, professions and callings specified in Schedule IV, and"

The motion was put and agreed to.

Dr. AMULYA RATAN GHOSE: I beg to move that the word "and" at the end of clause 202 (*f*) be omitted.

Mr. H. P. V. TOWNEND: I beg to state that Government have decided to omit the whole sub-clause (*f*) to clause 202.

Mr. PRESIDENT: Then do you move that sub-clause (*f*) of clause 202 be omitted?

Mr. H. P. V. TOWNEND: Yes, Sir, that is so. I beg to move that sub-clauses (*b*) and (*f*) to clause 202 be omitted.

The motion was put and agreed to.

The motion of Dr. Amulya Ratan Ghose failed.

Mr. PRESIDENT: The question is that clause 202, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 310.

Mr. PRESIDENT: The question is that clause 310 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: I beg to move that clause 310 be omitted.

Sir, clause 310 runs thus: A permission to erect a building, granted under this chapter, shall, unless it is renewed on an application made to the commissioners for this purpose, continue only for one year after the date on which it is granted, unless the work of erection has been commenced within that period and in any case shall not continue for a period longer than two years from the said date unless it is so renewed.

Further, it says that any person who erects a building or continues the work of erection of a building, when the permission granted under this chapter has expired, shall be deemed to erect such building or to continue such work without sanction. Sir, my arguments are not much. Once a person gets a sanction for building a house, that sanction ought to stand and there should not be any restriction that that sanction should only last for one year. Difficulties may arise to a man either on account of death in the family or due to indebtedness or of any other unforeseen causes; and such restriction of erecting a building within one year no doubt will cause great hardship. Also there is another difficulty and it is this: Poor ratepayers have not got the intelligence or capacity to write letters or force the commissioners to sanction their building plans again. Those who live in Calcutta understand the difficulties that are being often felt by ratepayers who have occasion to go to the municipality to have the work of erection of their buildings sanctioned. With these words, I commend my amendment to the acceptance of this House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. The clause is quite clear and provides for the case contemplated by Dr. Ghose, because if a building is once commenced, this sub-section will not apply, but once it is sanctioned, circumstances might change and it may be necessary for the commissioners to review the situation once more before fresh sanction is given. So I oppose the amendment.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Mr. PRESIDENT: The question is that clause 310 stand part of the Bill.

The motion was put and agreed to.

Clauses 311 to 321.

Mr. PRESIDENT: The question is that clauses 311 to 321 stand part of the Bill.

The motion was put and agreed to.

Dr. AMULYA RATAN GHOSE: On a point of order, Sir. What will happen to my amendment No. 1701?

Mr. PRESIDENT: That has not come up as yet.

Adjournment.

The Council was then adjourned till 2-30 p.m., on Tuesday, the 30th August, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 30th August 1932, at 2-30 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 102 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Agriculturists' debt.

*177. **Rai Bahadur SATYENDRA KUMAR DAS:** Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing—

(*i*) the total amount of estimated debt of the agricultural population of Bengal;

(*ii*) the amount of debt as reported by the Banking Inquiry Committee in 1931;

(*iii*) the amount of capital advanced to the co-operative credit societies of Bengal during the present economic depression for giving loan to the agriculturists of Bengal; and

(*iv*) what further steps, if any, the Government contemplate taking for giving further relief?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*i*) There is no estimate except that of the Banking Inquiry Committee.

(*ii*) Rs. 100 crores.

(*iii*) The total amount of loans advanced to agricultural credit societies by the Central Banks was Rs. 66,73,400 during the year ending 30th June, 1931. Complete figures for the subsequent period are not yet available.

(*iv*) The matter is under consideration.

Rai Bahadur SATYENDRA KUMAR DAS: With reference to answer (*iii*), will the Hon'ble Member be pleased to state whether the amount advanced is sufficient to meet the agricultural debts?

The Hon'ble Sir PROVASH CHUNDER MITTER: Possibly not.

Babu HEM CHANDRA ROY CHOUDHURI: With reference to answer (*iv*), will the Hon'ble Member be pleased to state whether there is any complete scheme before Government?

The Hon'ble Sir PROVASH CHUNDER MITTER: The matter is under examination and no scheme has yet been prepared.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether Government has taken any steps on receipt of the recommendations of the Banking Inquiry Committee?

The Hon'ble Sir PROVASH CHUNDER MITTER: The recommendations of that committee were made to the Government of India.

Maulvi TAMIZUDDIN KHAN: With reference to answer (*iv*), will the Hon'ble Member be pleased to state whether it is possible for Government to give any indication of the lines on which Government will proceed in this matter?

The Hon'ble Sir PROVASH CHUNDER MITTER: Not at this stage.

Khan Bahadur Maulvi AZIZUL HAQUE: Is the Hon'ble Member aware that there was a Provincial Banking Inquiry Committee to examine banking questions with reference to the situation and circumstances in Bengal?

The Hon'ble Sir PROVASH CHUNDER MITTER: Yes, it was a subsidiary committee to the Indian Banking Inquiry Committee.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether the recommendations of the Provincial Banking Inquiry Committee have been examined by the Local Government?

The Hon'ble Sir PROVASH CHUNDER MITTER: Banking is a central subject.

Khan Bahadur Maulvi AZIZUL HAQUE: My point is that the Provincial Banking Inquiry Committee made some recommendations in regard to matters that are within the purview of the Local Government. I ask whether those recommendations have been examined by the Government of Bengal?

The Hon'ble Sir PROVASH CHUNDER MITTER: Banking is a central subject. So, whatever we do we must do in consultation with the Government of India. Beyond that I am not prepared to say anything.

Khan Bahadur Maulvi AZIZUL HAQUE: Is the Hon'ble Member aware that the Provincial Banking Inquiry Committee did not only deal with banking matters, but so far as this province is concerned, they dealt with questions relating to indebtedness, co-operative societies and various other matters? Will the Hon'ble Member be pleased to state whether the matters dealt with by them have been considered by the Government of Bengal?

The Hon'ble Sir PROVASH CHUNDER MITTER: All the recommendations are under examination and as they are under examination, I am not prepared to say anything further.

Irrigation in Bankura.

***178. Babu SATYA KINKAR SAHANA:** (*a*) Is the Hon'ble Member in charge of the Irrigation Department aware—

(*i*) that the greater portion of the Bankura district forms part of the Chota Nagpur plateau;

(*ii*) that it is felt that canal irrigation owing to the undulatory condition of the land and the want of any powerful source, is almost an impossibility or prohibitively costly;

(*iii*) that the ancient people of Bankura (Malla Bhume), with an eye to adaptability to the topographical and climatic condition of the country, successfully took to *bandh* or tank irrigation; and

(*iv*) that the great number of *bandhs* or tanks so constructed are now in the possession of several co-owners not often in amity, and are consequently out of repair, silted up and cannot contain and supply the amount of water they used to do formerly?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state—

(*i*) what steps the Government have been taking or are taking for the repairs and improvement of the irrigation *bandhs* or tanks;

(*ii*) what amount the Government have spent during the last decade over irrigation in the Bankura district other than the cost of the irrigation office;

(*iii*) whether the Government are contemplating making the owners repair and keep the *bandhs* and tanks in good order by legislation; and

(*iv*) whether the Government have been contemplating a census of all the *bandhs* and tanks in each village used for irrigation?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Ghuznavi): (*a*) (*i*) No. There are some hills in the district which are spurs or outliers of the Chota Nagpur plateau.

(*ii*) No. In many places conditions are favourable for canal irrigation.

(*iii*) In the west of the district, where the country is undulating, there are embankments to retain water. In the east of the district, which is flat, ordinary tanks are found. Most of the tanks or *bandhs* are of considerable antiquity, but some were constructed in the course of famine relief operations.

(*iv*) In some cases this is so.

(*b*) (*i*) Government have not undertaken to repair or improve these works, but have encouraged the formation of co-operative irrigation societies. There are many such societies in Bankura district.

(*ii*) About Rs. 1,23,000.

(*iii*) No.

(*iv*) During the settlement a register of the sources of irrigation was prepared.

Khan Bahadur Maulvi AZIZUL HAQUE: With reference to answer (a) (*i*), that Government have not undertaken to repair or improve these works but have encouraged the formation of co-operative irrigation societies, will the Hon'ble Member be pleased to state whether it is not a fact that the advice of the Irrigation Department was responsible for loss of money and that all the works that were undertaken by the irrigation co-operative societies proved a failure?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: No.

Babu SATYA KINKAR SAHANA: With reference to answer (*a*) (*ii*) that in many places conditions are favourable for canal irrigation, will the Hon'ble Member be pleased to state the names of the places in which the conditions are favourable?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: There are several places, but I am afraid I do not carry the names in my head.

Babu SATYA KINKAR SAHANA: Will the Hon'ble Member be pleased to state what steps Government has taken to introduce canal irrigation in those places?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I can assure the member that we have got a large number of such works. If he wants a list of such works, I can give him that list just now.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether it is not a fact that a certain irrigation society had lost some money and Government had to reimburse the society?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I do not think it is correct.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state what the facts are?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I am quite prepared to give him the answer if the member will come to me.

Khan Bahadur Maulvi AZIZUL HAQUE: I want to exercise the privilege of the House.

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Then I ask for notice.

Babu SATYA KINKAR SAHANA: Will the Hon'ble Member be pleased to state why Government have not taken any steps to improve the condition of the *bunds* and banks in the Bankura district?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: If these *bunds* and banks are private property, Government do not intend to take any steps.

Re-excavation of the dead and dying rivers in Bengal.

*179. **Babu PROFULLA KUMAR GUHA:** (*a*) Has the attention of the Hon'ble Member in charge of the Irrigation Department been drawn to a series of conferences held under the auspices of various anti-malarial societies regarding re-excavation of the dead and dying rivers in Bengal with the co-operation of the people?

(*b*) Is it a fact that a portion of the river Saraswati in the district of Hooghly has been flowing as a result of the activities of the societies?

(*c*) Will the Hon'ble Member be pleased to state the action taken by Government in furtherance of the object?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: (*a*) and (*b*) Yes.

(*c*) Water is being supplied for flushing the rivers Banka, Behula, Bhaluka, Gangur, Ghea, Kana Nadi, Kana Damodar, Kousiki and Saraswati. Water has also been supplied for filling tanks and for experiments in flushing lands.

Officers of the Public Health and Irrigation Departments have attended meetings, written articles, given technical advice and have assisted the efforts of the societies to get obstructions removed.

Government contributed the following amounts for anti-malarial purposes in rural areas:—

1929-30—Rs. 62,000.

1930-31—Rs. 80,000.

1931-32—Rs. 80,866.

In addition, His Excellency the Governor of Bengal granted from his discretionary fund in 1930-31, Rs. 1,000 to the Central Co-operative Anti-Malaria Society for propaganda work in connection with the flushing of dead rivers and Government contributed Rs. 3,300 to that Society during the same year for anti-malaria purposes.

Maulvi ABUL KASEM: With reference to answer (*c*), will the Hon'ble Member be pleased to state whether the water channels which he has mentioned in the answer are now flowing, or is there any chance of their flowing, or not?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Yes, so far as I am aware, most of them are flowing.

Maulvi ABUL KASEM: Will the Hon'ble Member be pleased to state whether the Irrigation Department has taken any steps to clear the obstruction caused by railways, roads and jungles on the banks of these water channels?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Government has done whatever it is physically possible to do.

Maulvi ABUL KASEM: Will the Hon'ble Member be pleased to state whether it is not possible to ask the railway authorities to have larger openings for these channels?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Yes, it has been done in more cases than one.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Member be pleased to state on what matters and in what other places the Irrigation Department officers have written articles?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: These articles will be found scattered all over the place.

Maulvi ABUL KASEM: Will the Hon'ble Member be pleased to state what has been done with reference to the removal of the obstruction caused by railways, roads and jungles?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: All necessary action has been taken.

Maulvi ABUL KASEM: Will the Hon'ble Member be pleased to state whether the flow of these water channels, to which obstruction was caused by railways, has been renewed by the removal of obstruction?

The Hon'ble Alhadj Sir ADBELKERIM GHUZNAVI: I may inform the member that water of the Damodar river is being supplied by sluices for flushing the rivers Banka, Behula, Bhaluka, Damodar, Kousiki and Saraswati——

Mr. PRESIDENT: I do not think that is an answer to the question put by Maulvi Abul Kasem. What was the question?

Maulvi ABUL KASEM: I was told by the Hon'ble Member that Government had taken the necessary action for the removal of obstructions caused by railways, roads and jungles, and I want to know whether the obstructon to any of these water channels mentioned in the answer, has been removed.

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: As regards obstruction caused by railway, Government have taken steps to ask the railways concerned to remove the obstruction.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Member be pleased to state what action has been taken by the Irrigation Department in actually removing the obstruction? Has it been only writing of articles and giving advice?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: No.

Mr. B. C. CHATTERJEE: Can the Hon'ble Member mention a single one of them? Has he recollection of even the heading of a single article?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Yes, one, called *Sonar Bangla.*

MUNINDRA DEB RAI MAHASAI: Will the Hon'ble Member be pleased to state whether the obstruction at the confluence of the Hooghly and the Saraswati has been cleared?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I cannot say offhand; I must ask for notice.

Maulvi ABUL KASEM: Is the Hon'ble Member aware that in all these water channels which fall into the Hooghly, the water level does not rise because of the high level of the Hooghly, and this is due to the fact that water is not allowed to come in simply because the port of Calcutta will have to spend a large amount of money in dredging it?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I cannot say, because I do not know what the member means.

Additional Police force at Midnapore.

*188. **Mr. R. MAITI:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state whether it is a fact that an additional police force has been ordered to be quartered for a period of one year in the area within the limits of the Midnapore Municipality in the Sadar subdivision of the district at the cost of the inhabitants thereof, on the ground that the said area has been found to be in a disturbed and dangerous state?

(*b*) Is the Hon'ble Member aware of the statement made by the Officer in charge of the Midnapore town thana in connection with the trial of Prodyot Kumar Bhattacharjya before the Commissioners at Midnapore for the murder of Mr. R. Douglas to the effect that in course of his investigation into this case he did not find any evidence that there was a conspiracy at Midnapore which had as its object the overawing of the Government by killing Government officials?

(*c*) If the answer to (*b*) is in the affirmative, what are the reasons for declaring the said area to be in a disturbed and dangerous state?

(*d*) Will the Hon'ble Member be pleased to state whether it is in the contemplation of the Government to exempt any person or class or section of the inhabitants from being taxed for the costs of the additional police force?

(*e*) If the answer to (*d*) is in the affirmative, will the Hon'ble Member be pleased to state—

(*i*) who are the persons to be exempted;

(*ii*) who are the persons liable to be penalised;

(*iii*) on what principle such a differentiation is made; and

(*iv*) if any tax is imposed on what basis is it to be calculated?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) Yes.

(*b*) No.

(*c*) Does not arise.

(*d*) Orders for exemption have already been issued.

(*e*) (*i*), (*ii*) and (*iii*) The charge will be collected from members of the Hindu community, who are assessed to municipal tax, with an exception in favour of those classes or individuals in regard to whom it is *prima facie* reasonable to assume that they have done what they can to counteract the disturbing influences that have been prevalent.

(*iv*) The basis of calculation is still under consideration.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state why the Government have decided to collect the charge from members of the Hindu community only?

The Hon'ble Mr. R. N. REID: Because it is generally the members of the Hindu community who have been chiefly concerned in these outrages.

Babu HEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Member be pleased to state in reference to questions (*i*), (*ii*) and (*iii*) whether even those Hindus who have no connection with these outrages, nor have sympathy with them, but who did not actively help Government in counteracting these influences, are going to be penalised?

The Hon'ble Mr. R. N. REID: It is quite possible; it may affect some of these persons.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if Government possess any evidence to show that the Hindu inhabitants generally of the place are connected with the terrorist movement?

The Hon'ble Mr. R. N. REID: Government have some evidence.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if it is the intention of Government to exempt members of the depressed classes from the charges?

The Hon'ble Mr. R. N. REID: I did not say so, Sir, in my reply. No, not as such.

Babu HEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Member be pleased to state if there is a presumption in respect to the Hindus that they are members of terrorist associations?

The Hon'ble Mr. R. N. REID: I have nothing further to add to what I have said.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if Government has considered what effect this invidious distinction is likely to have upon Hindu officers of Government?

The Hon'ble Mr. R. N. REID: The question has not been specifically considered.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether this decision was arrived at before or after the communal award of the Prime Minister?

The Hon'ble Mr. R. N. REID: Before.

Ranaghat Peoples' Bank.

*181. **Mr. SARAT KUMAR ROY:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state what action, if any, has been taken regarding the Ranaghat Peoples' Bank on the note of the Assistant Registrar on the audit report for the year 1929-30, sent with that for the year 1930-31, and the remarks of the Subdivisional Officer and the Sessions Judge in their judgments of the 31st July and 10th October, 1931, respectively, about the defalcation of the bank balance?

(*b*) Will the Hon'ble Minister be pleased to state what steps, if any, have been taken to realise the money?

MINISTER in charge of AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): (*a*) The directorate of the Ranaghat Peoples' Bank has been reconstituted, the secretary and six directors having been replaced by new men.

(*b*) The Registrar has advised the bank to file a civil suit against the persons responsible for the defalcation.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to state if any civil suit has already been instituted?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: Not yet.

Mr. SARAT KUMAR ROY: Will the Hon'ble Minister be pleased to state if it is a fact that the Registrar of Co-operative Societies received a representation on the 6th January, 1931, from the shareholders and depositors of the Ranaghat Peoples' Bank inviting his attention to the defalcation revealed by the audit of the bank, and, if so, why no steps were taken to punish the offenders, and to prevent further defalcations?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: Before any representation was received, prosecution had been started.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to state when the defalcation was detected?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: In 1930.

Mr. SARAT KUMAR ROY: Is it not a fact that for this negligence on the part of the Registrar, further and far heavier defalcations have actually been perpetrated?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: Government does not find any negligence on the part of the Registrar.

Mr. SARAT KUMAR ROY: Will the Hon'ble Minister be pleased to state if it is a fact that when Government got the representation, the defalcation was only very small, but afterwards it came to nearly Rs. 8,000?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: As soon as the defalcation was detected, prosecution was started.

Rural Primary Education Act.

***182. Rai Sahib SARAT CHANDRA BAL:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state the names of the district boards willing to make over to the district school boards, to be formed under the Primary Education Act, the amount now spent by them on primary education?

(*b*) Is it in the contemplation of the Government to introduce the Bengal Rural Primary Education Act partly in the said districts? If so, when?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) Murshidabad, Mymensingh, Birbhum, Chittagong, Noakhali, Dinajpur and Pabna.

(*b*) Government hope that they may be able to bring parts of the Act into force in these districts in the course of 1933, but the matter is still under consideration.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Minister be pleased to state when replies were received by Government from the district boards which were willing to make over the amount?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Replies are still being received. The reply from Chittagong came about a month ago.

Babu HEM CHANDRA ROY CHOUDHURI: Is the Hon'ble Minister aware that distress is prevailing in the district of Noakhali?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Certainly.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Minister be pleased to state whether Faridpur is one of the districts willing to contribute money for primary education?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes, but their willingness to contribute is subject to certain conditions which cannot be accepted.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to state whether the correspondence with these district boards is completed, or is still going on?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: It is still going on, some of the district boards have not given a definite reply; some have laid down certain conditions, and we have asked them to withdraw those conditions.

Khan Bahadur Maulvi AZIZUL HAQUE: With reference to all those district boards who have stated conditions, is it not desirable in consultation with the chairman to settle the matter on the spot?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The names of those district boards have been mentioned here——

Khan Bahadur Maulvi AZIZUL HAQUE: I am speaking of those district boards who have accepted, subject to conditions; is it not desirable to settle the question as far as those district boards are concerned?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: We have already got enough for our scheme, I cannot commit myself offhand to the proposal of the hon'ble member.

Khan Bahadur Maulvi AZIZUL HAQUE: Does the Hon'ble Minister mean to say that two years after the passing of the Primary Education Act, Government has not yet prepared any scheme for all the districts of Bengal?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: If all the proposals had been received from the district boards Government would have been able to devise a scheme.

Khan Bahadur MUHAMMAD ABDUL MOMIN: In regard to those districts who have accepted unconditionally, will the Hon'ble Minister be pleased to state whether the matter is now under consideration, and how long it will be under consideration?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: As long as Government consider it necessary. Extra money has to be provided, and until there is money, nothing can be done. Money may be provided in next year's budget.

Convict Sushil Das Gupta.

***183. Mr. R. MAITI:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact that one Sushil Das Gupta, a convict in the Puthia mail robbery case, who was subsequently convicted and sentenced to one year's rigorous imprisonment for escaping from the jail, has been kept in the Midnapore Central Jail?

(*b*) Is it a fact that he is put on constant bar-fetters for an indefinite period?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Member be pleased to state under what authority and under whose orders he has been subjected to such punishments?

(*d*) Are the Government considering the desirability of removing these restrictions?

(*e*) What are the reasons for inflicting on the said Sushil Das Gupta double punishment for one offence for his escape from the prison, *viz.*, imprisonment for one year and constant bar-fetters inside the jail for an indefinite period?

(*f*) Are the Government considering the desirability of issuing necessary instructions for the removal of this grievance of the prisoner?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) Yes.

(*b*) and (*c*) Under rules 496 and 497 of the Jail Code, fetters have been used for safe custody of the prisoner for three months only by the Superintendent of the jail.

(*d*) No.

(*e*) It is necessary under the above rules in view of his recent escape from jail and in order to render another escape on his part impossible.

(*f*) No.

Rural Primary Education Act.

*184. **Maulvi TAMIZUDDIN KHAN:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) what steps, if any, have been taken by Government for bringing the provisions of the Bengal Rural Primary Education Act, 1930, into operation; and

(*ii*) whether district school boards have been established anywhere in the province?

(*b*) If the answer to (*a*) (*ii*) is in the negative, what is the reason for the delay?

(*c*) Is the Hon'ble Minister aware that a feeling exists that certain interested persons of influence are trying to frustrate the objects of the Act by inducing Government to put off its operation indefinitely?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) (*i*) Estimates have been prepared and the necessary preliminaries have been worked out, so that, when economic conditions permit, the full machinery of the Act may be brought into operation with the least possible delay.

(*ii*) Nowhere.

(*b*) The optional scheme, in which district boards have been invited to participate, provides for the establishment of district school boards. Owing to the delay in receiving replies from some of the district boards, Government have been unable to come to a final decision whether effect can be given to the scheme. Until that decision is reached, district school boards cannot be established.

(*c*) The existence of such a feeling has been suggested in this Council.

Maulvi TAMIZUDDIN KHAN: With reference to answer (*b*), will the Hon'ble Minister be pleased to state whether Government thinks that unless all the districts in Bengal participate, the scheme cannot be given effect to?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: We only want a reasonable number; we do not want all the districts to participate.

Mr. S. M. BOSE: With reference to answer (*c*), is the Hon'ble Minister aware that certain interested persons of influence are trying to give effect to the objects of the Act by inducing Government to start these schools?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes, they are very anxious that Government should enforce the Act.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Abduction cases in Bengal.

84. Babu KISHORI MOHAN CHAUDHURI: (*a*) Is the Hon'ble Member in charge of the Police Department aware of the increased number of abduction cases in Bengal and the relative incapability of the police to cope with the crime?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of—

(*i*) enacting any special law to meet the situation; or

(*ii*) recommending the Governor General in Council to promulgate an Ordinance as has been undertaken to cope with certain other movements?

The Hon'ble Mr. R. N. REID: (*a*) The member is referred to the statement laid on the Library table in answer to his unstarred question No. 67 which gives the number of abduction cases in the years 1926 to 1931. It does not appear from the percentage of cases detected to cases reported that the police are incapable of coping with these crimes.

(*b*) Does not arise.

Babu KISHORI MOHAN CHAUDHURI: Will the Hon'ble Member be pleased to state if abductions have really increased?

The Hon'ble Mr. R. N. REID: Yes, I think they have increased in recent years.

Babu KISHORI MOHAN CHAUDHURI: Will the Hon'ble Member be pleased to state whether any steps have been taken to prevent this?

The Hon'ble Mr. R. N. REID: We have issued special instructions to the police.

Bhatpara Municipality.

85. Maulvi LATAFAT HUSSAIN: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state why no reply was vouchsafed to the objection No. 71, dated 28th February, 1932, preferred to the Government by the ratepayers of Wards Nos. II and III of the Bhatpara Municipality against the proposed imposition of a lighting rate published under notification No. 90-M., dated the 8th January, 1932, in the *Calcutta Gazette* of 28th January, 1932?

(*b*) Is it a fact that the said proposed rate was sanctioned by the Government under notification No. 488-T.M., dated the 28th June, 1932, published in the *Calcutta Gazette*, dated 30th June, 1932, without making any inquiry into the grievances?

(*c*) Is it a fact that the said question was brought to the notice of the District Magistrate on the 9th May, 1932, by a deputation consisting of three M.L.Cs. and some ratepayers of the municipality?

(*d*) Will the Hon'ble Minister be pleased to state why no steps have been taken to redress the grievances of the domiciled up-country ratepayers residing in the municipality in the matter of number of lights, hydrants, the extent of metalled roads and the proportionate share in the ministerial staff of the municipality?

(*e*) Is the Hon'ble Minister aware that the said grievances were brought to the notice of the chairman of the municipality and the Government repeatedly?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) It is not the practice to send replies to such objections.

(*b*) No.

(*c*) The District Magistrate received a deputation from the "Kankinara Labour Union" on the 9th May, as regards representation of labour; reference was made incidentally to the lighting rate.

(*d*) and (*e*) It is understood that all legitimate grievances have received attention from the authorities concerned.

Khas mahal peons at Kutubdia.

86. Maulvi NURAL ABSAR CHOUDHURY: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) how many *khas mahal* peons have been appointed at Kutubdia during the term of the present *khas mahal* officer at Kutubdia;

(*ii*) whether any of them is a Mussalman?

(*b*) If the answer to (*a*) (*ii*) is in the negative, will the Hon'ble Member be pleased to state the reason therefor?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) 4.

(*ii*) No.

(*b*) Of the four peons, three were close relatives of *khas mahal* peons who were retiring and one had previously served the *khas mahal tahsildar* as an orderly.

3 p.m.

Maulvi SYED MAJID BAKSH: With reference to answer (*b*), will the Hon'ble Member be pleased to state if it is the policy of Government to appoint relatives of retiring peons in their places?

The Hon'ble Sir PROVASH CHUNDER MITTER: No.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to state whether these posts are advertised regularly to get new men?

The Hon'ble Sir PROVASH CHUNDER MITTER: Not with regard to these vacancies.

Lecturers appointed in Hooghly and Presidency Colleges.

87. Rai Bahadur KESHAB CHANDRA BANERJI: (*a*) Is the Hon'ble Minister in charge of the Education Department aware that recently two gentlemen have been appointed, one as Lecturer in English in the Hooghly College and the other as Lecturer in Chemistry in the Presidency College, Calcutta?

(*b*) Is it a fact that candidates having far superior qualifications were available for these posts?

(*c*) If the answer to (*b*) is the affirmative, will the Hon'ble Minister be pleased to lay on the table a statement giving the names and qualifications of the appointed candidates?

(*d*) If the answers to (*a*) and (*b*) are in the affirmative, will the Hon'ble Minister be pleased to state the special qualifications, if any, for which the two candidates have been appointed?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) Yes.

(*b*) Candidates having superior academic qualifications were available.

(*c*) A statement is laid on the table.

(*d*) The two candidates had the requisite academic qualifications: they were appointed in accordance with the rules framed by Government for the larger employment of Muhammadans in the Educational Services.

Statement referred to in the answer to clause (*c*) *of unstarred question No. 87.*

NAMES AND QUALIFICATIONS OF THE CANDIDATES APPOINTED AS LECTURER IN ENGLISH IN THE HOOGHLY AND LECTURER IN CHEMISTRY IN THE PRESIDENCY COLLEGES.

1. Maulvi Abdul Wadud. M.A. in English, Class II. (Previous experience since November, 1930.) Appointed as Lecturer in English, Hooghly College.

2. Maulvi M. Ahmed Hosain. M.Sc. in Chemistry, Class II. (Worked as Assistant to Plant Biological Chemist, Imperial Institute of Agricultural Research at Pusa, for about 3 years.) Appointed as Lecturer in Chemistry, Presidency College.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Minister be pleased to state whether it is a fact that Hindu gentleman has been officiating for several months in the post to which Maulvi Abdul Wadud was subsequently appointed?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes, for the best part of four months.

Babu JITENDRALAL BANNERJEE: Is it not a fact that this Hindu gentleman stood first class first in every university examination in which he appeared?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: He is a first class M.A. and a gold medalist.

Babu JITENDRALAL BANNERJEE: Is the Hon'ble Minister in a position to deny that he got first class in every examination in which he appeared?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: That may be.

Babu JITENDRALAL BANNERJEE: Is it not a further fact that this gentleman had been recommended unanimously by the governing body of the Hooghly College?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I am not prepared to disclose that.

Babu JITENDRALAL BANNERJEE: Seeing that a man of such superior qualifications was replaced by a man of admittedly inferior qualification, will the Hon'ble Minister kindly inform the House whether that was done under the principle of minimum qualification?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The appointment was made on the basis of the Government circular.

Babu JITENDRALAL BANNERJEE: Does the question of minimum qualification apply to superior appointments in the Education Service, as for instance, in the appointment of professors of colleges?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Is it not a fact that Abdul Wadud was already a permanent employee in the Calcutta Madrasah?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: It was not a permanent appointment.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Minister be pleased to state what is the difference between a lecturer and a professor in a college?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: There are the Indian Educational Service and Bengal Educational Service.

Babu JITENDRALAL BANNERJEE: I am not speaking of pay or status. But will the Hon'ble Minister kindly enlighten us as to the essential difference between the work of a professor and a lecturer in a college?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: A professor is the head of a department and he has other duties to perform besides those of a lecturer.

Babu JITENDRALAL BANNERJEE: Is it not a fact that there are professors without being heads of departments? Are there not many such professors in the University?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The Calcutta University is not under the Government.

Babu JITENDRALAL BANNERJEE: I am not talking of the Cambridge University. Are not there many such professors in the colleges of the Calcutta University which are under the Education Department of Government?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes, there are some in the Presidency College.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Minister kindly inform us what are the administrative duties that a professor has to perform?

Mr. PRESIDENT: I do not think that question arises.

Babu JITENDRALAL BANNERJEE: A professor has got no administrative duties to perform; so the answer is misleading.

Maulvi SYED MAJID BAKSH: Are we to understand that lecturers teach in the lower classes and the professors in the higher classes?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Minister tell us if it is the policy of Government to make any such distinction among the officers already in the service of Government?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Promotions are made on merit and not on communal grounds.

Mr. B. C. CHATTERJEE: Can the Hon'ble Minister contradict me when I say that Maulvi Abdul Wadud has been given this post because he is a Muhammadan?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: He was appointed under the Government circular.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Minister be pleased to state if any Hindu gentleman already in Government service was a candidate for the post or not?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No claim of any officer was superseded. It was a direct appointment.

Lectureship in Chemistry of Krishnagar College

88. Rai Bahadur KESHAB CHANDRA BANERJI: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a copy of the recommendation of the governing body of the Krishnagar College in respect of a recent vacancy in Lectureship in Chemistry in that college?

(*b*) What action, if any, has been taken on the said recommendation?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) Government are not prepared to publish the recommendations made by the governing body.

(*b*) Does not arise.

Ayurvedic medicine.

88. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state why there is so much delay in giving effect to the recommendations of the Ayurvedic Committee?

(*b*) Is it a fact that Mahamahopadhyaya Kaviraj Gananath Sen, M.A., L.M.S., was officially asked in 1929 to draft the rules for a General Council and a State Faculty for Ayurvedic Medicine when he pressed the matter before the Governor in Council and the draft rules as submitted by him were after many modifications considered in a conference, under the Hon'ble Minister, of many leading *kavirajes* of Bengal and others interested in the advancement of Ayurved in December, 1931?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Minister be pleased to state whether a definite scheme was unanimously approved?

(*d*) Is it a fact that the Hon'ble Minister assured the members present at the aforesaid meeting that the rules as amended were on the whole acceptable to Government and they would be published as statutes at an early date?

(*e*) If so, what stands in the way of the statutes being gazetted and when may they be gazetted?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) There are difficulties as to the finances of the proposed Council and State Faculty of Ayurvedic Medicine.

(*b*) and (*c*) Yes.

(*d*) Yes, provided that sufficient financial support was forthcoming.

(*e*) Nothing can be done till that financial support is actually forthcoming.

Munsif's courts, Howrah.

89. Babu HARIBANSA ROY: (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether it is in the contemplation of Government to abolish one of the permanent courts of the munsif at Howrah?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state—

(*i*) the reasons for such abolition, and

(*ii*) the date when the abolition takes place?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) No.

(*b*) Does not arise.

GOVERNMENT BILL.

The Bengal Municipal Bill, 1932.

[The discussion on the Bengal Municipal Bill, 1932, was then resumed.]

Clause 323.

Mr. PRESIDENT: The question is that clause 323 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: Sir, with your permission I would like to make a slight alteration in the amendment. I wish to leave out the words "proviso to".

Mr. PRESIDENT: You may do that.

Dr. AMULYA RATAN GHOSE: I beg to move that clause 323 be omitted.

I beg also to move that to clause 323 the following be added, namely:—

"Provided that notwithstanding anything contained elsewhere in this Act if it appears to the commissioners at a meeting of a municipality included in Schedule II that the lands on which the *bustee* improvements are to be made are valued at more than fifty rupees per *cottah* the municipality shall pay the price of the land to the landlord after deducting a reasonable amount not exceeding one-fourth of the total value of the land for the betterment of the *bustee*."

Sir, clause 323 will cause extreme loss to the land-owners of *bustees*. This clause, when set in motion, will cause serious loss to the owners of

bustees in more ways than one. It will be a dangerous clause in view of the facts that (*1*) in the first instance the land upon which the tenants' huts or houses should exist shall be removed and the land made vacant in this way will no more be productive to the owner of the land; the tenant will not pay a farthing as rent for such land. On the contrary, the owner of the land will have to pay all the expenses incurred thereby. Not content with this only provision has been made that if the commissioners at a meeting may think fit to pay such reasonable compensation to the owners or occupiers of huts removed shall be paid by the owners of the *bustee*. I would not have wondered if further provision had been made that the owners of the *bustees* shall pay to the tenants at the recommendation of the commissioners at a meeting the expenses which will be made by such tenants at the time of their sons' and daughters' marriages. I do not know then what the municipalities will spend towards the improvement of a town. Will the commissioners be there in the municipalities to pass resolutions and to think about victimising the owners of lands? This will not be victimising the landlords, but the poor tenants will be ultimately the losing people because the owners of the land will exact from the tenants with compound interest what they will have to pay towards the improvement of a *bustee* —so this will be a suitable machinery to grind the poor tenants as well. Improvement of a *bustee* should be made whenever and wherever possible, but who should pay for that improvement? I ask in all seriousness that the inhabitants of a *bustee* or their landlords do pay municipal rates and taxes as much as other ratepayers outside the *bustee* do. Then why, when any improvement of a *bustee* becomes necessary, the owners of the *bustee* be asked to pay costs towards the improvement? For years and years together the municipalities go on realising rates from the inhabitants of *bustees* and merrily spend that money towards tarmacadamising the roads leading towards the houses of the chairman or the magistrate or the favourite commissioners of the chairman, purchase of cars for the use of the chairman or the vice-chairman of the municipality, or distributing fountain pens to the more favourite commissioners of the chairman. This is how the Government want to give license to the commissioners to spend money to satisfy their whims and caprices fleecing the poor tenants and the innocent owners of land.

Then, again, in any *bustee*, the ratepayers whereof will not vote for a certain candidate set up by a certain party and if the candidate from the party becomes successful and the party comes into power, the people inhabiting that *bustee* and its owner will be made the target and the commissioners will in all possibility find out that that *bustee* is very insanitary and requires improvement and thus the poor inhabitants of that *bustee* will be heavily punished as also their landlords for having acted according to their conscience and convictions. Apart from this view there is another consideration. Sir, if the *bustees* are improved at

the cost of the owners of the *bustees*, then what else remains for the municipalities to do? Are not the municipalities comprised of nothing but so many *bustees*? *Minus* the *bustees*, I wonder how can one think of a municipality. Sir, a practical view of the effects of this clause should also be taken into consideration and that is this: that the commissioners are elected commonly from well-to-do classes of people and if the charges for the cost of *bustee* improvement are sought to be made upon the owners of the *bustees* and such owners are generally connected in some way or other with the commissioners, they will not find any *bustee* insanitary and any *bustee* where improvement may be necessary; so this clause, if passed into law, will be an impediment in the way of *bustee* improvements and this clause will remain a dead law.

Sir, I have pointed out as lucidly as I could the pros and cons of this clause and now I would suggest that if the Government really mean business, then the clause should be omitted or owners of the land should get adequate compensation from the commissioners. This is the only reasonable and practical way in which *bustees* can really be improved.

Sir, as regards my next motion, I propose to add the following:—

"Provided that notwithstanding anything contained elsewhere in this Act if it appears to the commissioners at a meeting of a municipality included in Schedule II that the lands on which the *bustee* improvements are to be made are valued at more than fifty rupees per *cottah* the municipality shall pay the price of the land to the landlord after deducting a reasonable amount not exceeding one-fourth of the total value of the land for the betterment of the *bustee*."

The municipality should pay for the land which will be taken over for improvement. The landlord cannot afford to lose both ways, the land which will be taken over and the rent as well, and according to this clause he will have to pay for all expenses. Sir, with these words, I commend my motion for the acceptance of the House.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I rise to oppose the amendment. In the first instance, I would draw the attention of Dr. Ghose particularly to the heading of this clause. The heading says: "sanitary measures with regard to *bustees*." It is a matter of regret that my friend as a medical man should stand against the provisions of clause 321. The measures provided therein are applicable to *bustees* which are in an insanitary condition. The clause says: "If it appears to the commissioners at a meeting that the condition of any *bustee* is insanitary or at any rate with risk of disease to the inhabitants of the neighbourhood. . . . . ." That is a preliminary clause and then clauses 322 and 323 come in. Does my friend mean to say that even when a *bustee* is insanitary, the owner of the *bustee* should be allowed

to remain without being called upon to carry out improvements? Then, under clause 322 notice is given to the owner and after notice is given, the parties are given hearing; after that if the owner of the land is so unreasonable as not to carry out the improvements, then only clause 323 comes in, under which the municipality will be allowed to carry out the improvements and realise the expenditure from the owner. It is a well known fact that in municipalities these *bustees* are the breeding places of diseases, and if they are to be cleared, some effective measure will have to be taken. Everybody who knows these *bustees* can realise the difficulties of improving them. These are the only measures which can be taken to remove the insanitary conditions of the *bustees* which are the breeding places, as I said, of all kinds of diseases. I am surprised that a medical man like my friend does not realise the importance of improving the *bustees*.

Dr. AMULYA RATAN GHOSE: On a point of explanation, Sir. I never said that the *bustees* should not be improved. What I said was that the improvement should be done at the cost of the municipality and not at the cost of the owner.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, it is my misfortune to rise again and again to oppose Dr. Amulya Ratan Ghose. I cannot understand his mentality in moving such amendments. This amendment is quite on a par with his other amendments which seek to obstruct measures proposed for public benefit. As pointed out by Dr. Dutt, these are measures for improving insanitary *bustees*. Why should the municipality waste public money in improving private properties? These *bustees* are private properties and when improved will fetch more income to the owner and not to the municipality: what Dr. Ghose suggests is this: that the municipality should by spending public money improve private *bustees* and thereby benefit private owners. He tried to be sarcastic by asking why should it not be provided that the *bustee*-owners should pay for the marriages of the sons and daughters of the people living in the *bustees*. That was a joke which was absolutely out of place and in bad taste. Sir, the first proposal is that clause 323 should be omitted altogether, so that there should be no provision for improvement of the *bustees* at all. If this is accepted, it will leave a great hiatus and there will be no provision for improving *bustees*. His second proposal is that the municipality must pay for the improvement of the *bustees* which is a very unreasonable proposal and I oppose it. I hope that Dr. Ghose will have the good sense to withdraw his motions.

The motions of Dr. Amulya Ratan Ghose were then put and lost.

Mr. PRESIDENT: The question is that clause 323 stand part of the Bill.

The motion was put and agreed to.

Clauses 324 to 327.

Mr. PRESIDENT: The question is that clauses 324 to 327 stand part of the Bill.

The motion was put and agreed to.

Clause 328.

Mr. PRESIDENT: The question is that clause 328 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: On a point of order, Sir. Am I not entitled to move my other motions under this clause?

Mr. PRESIDENT: No, they fail.

The motion that clause 328 stand part of the Bill was put and agreed to.

Clause 329.

Mr. PRESIDENT: The question is that clause 329 stand part of the Bill.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 329 (8), in lines 9 and 10, the words "which is in excess of one-seventh of the entire area of the land" be omitted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. This clause is based on section 359 of the Calcutta Municipal Act. If compensation is made compulsory even when a small portion of land is taken for the improvement of a road, improvement of *bustees* would become impossible. I would remind my friend that not only will the public benefit by such improvement, but the *bustee*-owners will also benefit. So it is necessary that he should also contribute, if not in money, at least in kind. That is an accepted principle and it has been followed here. Under clause 328 the owner of a *bustee* may be asked to open out roads for the improvement of the

bustee. It is his duty to improve it if it is in an insanitary condition, and here the municipality takes upon itself that duty and asks the owner to contribute partially for the improvement. I hope, Sir, after this explanation the hon'ble mover will withdraw his motion.

The motion of Maulvi Syed Majid Baksh was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that clause 329 stand part of the Bill.

The motion was put and agreed to.

Clauses 330 to 332.

Mr. PRESIDENT: The question is that clauses 330 to 332 stand part of the Bill.

The motion was put and agreed to.

Clause 333.

Mr. PRESIDENT: The question is that clause 333 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: I beg to move that for clause 333 the following be substituted, namely:—

"333. The commissioners may, by order published at such places as they may think fit, set apart convenient wells, tanks, or parts of rivers, streams or channels, not being private property, for the supply of water for drinking and for culinary purposes; and may prohibit therein all bathing, washing of clothes and animals, or other acts calculated to pollute the water set apart for the purposes aforesaid;

Commissioner may provide for drinking water, bathing places

and may similarly set apart a sufficient number of the same for the purpose of bathing;

and a sufficient number for washing animals and clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants.

The commissioners may, by an order published at such places as they may think fit, prohibit in the private portion of any stream or channel used as a part of the public water-supply, bathing, washing of clothes or animals or any act likely to pollute the water in the public portion of such stream or channel."

Sir, before I proceed further I ought to tell you that there is a printing mistake in the last line but two of the amendments. The word "for" should be substituted for the word "of" after the word "number". The alteration made in the new clause is that the commissioners may reserve any private tank, well, spring or water-course. That was not in the old section at all, and it is now provided that, subject to any rights which the owner may retain with the consent of the commissioners, this may be done. I submit, Sir, that it is not judicious to have any private wells, tanks or parts of river channels reserved for the purpose of providing drinking water. It should always be done in the case of public wells and tanks and I do not think that there is any necessity for this alteration.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, as was pointed by the mover himself, the distinction between this clause and the corresponding section of the existing Act is this: under the existing section only public tanks and wells can be reserved, but here it is provided that private tanks and wells can also be reserved with the consent of the owner and not otherwise, subject to his rights being retained. I would remind the hon'ble mover that in *mufassal* municipalities there are very few public tanks and wells; most of the tanks and wells which are fit to be used for drinking purposes belong to private owners, and if private tanks and wells are excluded and the clause is only confined to public tanks and wells, as in the existing section, it will become a dead letter, and it is because this section cannot be applied with any effect at the present moment that this improvement has been suggested.

The motion of Mr. Narendra Kumar Basu was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that clause 333 stand part of Bill.

The motion was put and agreed to.

Clauses 334 to 337.

Mr. PRESIDENT: The question is that clauses 334 to 337 stand part of the Bill.

The motion was put and agreed to.

3-30 p.m.

Clause 338.

Mr. PRESIDENT: The question is that clause 338 stand part of the Bill.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 338, in line 8, after the word "commissioners" the words "or the chairman" be inserted.

Sir, in sending samples of water to the public analyst, I beg to include, in addition to the commissioners, also the chairman as one of the persons entitled to send them to the analyst.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I oppose the amendment, Sir. It is unnecessary. In the Bill only the words "the commissioners" appear, but it means the executive of the municipality and not the commissioners only. Certainly, the executive of the municipality includes the chairman also.

The motion of Maulvi Syed Majid Baksh was then put and lost.

Mr. PRESIDENT: The question is that clause 338 stand part of the Bill.

The motion was put and agreed to.

Clauses 339 to 346.

Mr. PRESIDENT: The question is that clauses 339, 340, 341, 342, 343, 344, 345 and 346 stand part of the Bill.

The motion was put and agreed to.

Clause 347.

Mr. PRESIDENT: The question is that clause 347 stand part of the Bill.

Babu SATYENDRA NATH ROY: I beg to move formally that in clause 347, in line 3, after the words "thick vegetation" the words "cluster of trees or shrubs" be inserted.

Mr. H. P. V. TOWNEND: With your permission, Sir, may I move that in clause 347, line 6, the words "or forming an impediment to sufficient ventilation" be omitted?

The reason why I have sprung this amendment upon the House at so short a notice is that we are advised by our law officers that these words may interfere very seriously with existing civil rights. This was not anticipated and the matter was not considered from this aspect before; hence this amendment.

Babu SATYENDRA NATH ROY: May I rise to a point of order? What Mr. Townend is now moving comes below in connection with amendment No. 1712; but he is not replying to my motion, which is about the insertion of the words "cluster of trees or shrubs" after the words "thick vegetation".

Mr. PRESIDENT: That is not a point of order. It is not for you to judge the amendment that Mr. Townend has moved. Have you anything to say in support of it or against it?

The motion of Mr. H. P. V. Townend was then put and agreed to.

The motion of Babu Satyendra Nath Roy was then put and lost.

Mr. PRESIDENT: The question is that clause 347, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clauses 348 to 353.

Mr. PRESIDENT: The question is that clauses 348, 349, 350, 351, 352 and 353 stand part of the Bill.

The motion was put and agreed to.

Clause 354.

Mr. PRESIDENT: The question is that clause 354 stand part of the Bill.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 354 (*1*) (*i*), in line 1, after the words "slaughter of animals" the words "for professional purposes" be inserted.

Sir, I presume that the framers of the Act also meant that and that is why I propose the addition of the words "for professional purposes" after the words "slaughter of animals", in order to make the meaning clear and also avoid other difficulties. I think Government should accept this.

Mr. H. P. V. TOWNEND: With your permission, Sir, may I move an amendment at short notice, *viz.*, that in clause 354 (*1*) (i), lina 3, the words "the sale of their flesh" be omitted? I hope this will satisfy the mover.

Maulvi SYED MAJID BAKSH: I accept the amendment, Sir, and would beg leave of the House to withdraw my amendment.

The motion of Maulvi Syed Majid Baksh was then, by leave of the Council, withdrawn.

The motion of Mr. H. P. V. Townend was then put and agreed to.

Babu SATYENDRA NATH ROY: I formally move that in clause 354 (*1*) (*x*) after the word "coal" the words "or coke" be inserted. It is much safer to add the words "or coke" after the word "coal".

Mr. B. C. CHATTERJEE: I support the amendment, Sir. It appears in the Calcutta Municipal Act also.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Is Mr. B. C. Chatterjee quite sure that the word "coke" occurs in the Calcutta Municipal Act in this connection?

Mr. B. C. CHATTERJEE: Yes, it occurs in the relevant section, 386 of the Calcutta Municipal Act.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Then I am prepared to accept it, Sir.

The motion of Babu Satyendra Nath Roy was then put and agreed to.

Mr. C. C. COOPER: With your permission, Sir, I would like to make some verbal alterations in my amendment, so that it would read thus: that after clause 354 (*1*) (*xii*) the following proviso be added, namely:—

"Provided that this clause shall not apply to the stock of any such article held by and intended for use in the business of any mill, factory, shipyard, engineering or other manufacturing firm situated within the municipality."

The object of this amendment is to remove a defect which has continued in the existing Act for a good many years. The jute mills, factories and other manufacturing concerns keep their goods stocked in their godowns, in their own premises and in their own compounds. And I need hardly say that they are properly protected against fire, so that no question arises of any municipality requiring to exercise any fire control. I may submit, Sir, that this jute and other articles are used not for purposes of trade but are stocked for their own use by the

mills and factories for manufacturing purposes. The municipalities have been trying for years, however, to make the mills take out a license and pay fees on their godowns upon the pretext the jute, etc., was stored for trading and not manufacturing purposes. We have always maintained this construction could not be placed on the Act and my amendment is designed to make the position quite clear.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government are prepared to accept the revised amendment.

The motion of Mr. C. G. Cooper was then put and agreed to.

Rai Bahadur Dr. HARIDHAN DUTT: I beg to move that in clause 354 (*l*) (*xiv*), in line 2, after the word "may" the words "on the recommendation of the commissioners" be inserted. Sir, it has been laid down in the Bill that Government will have to take the initiative, but my object is that the initiative should come from the local commissioners rather than from the Government. In a matter like this, I would depend more upon the commissioners because the knowledge of local conditions is much more with the commissioners than with the Local Government. The Local Government is certainly a superior body and they would control the local bodies, but at the same time I believe the Hon'ble Minister himself will admit that situated as we are, the Local Government can obtain their information from the local people and the local people should be in a better position to say which trade would be dangerous or offensive and which trade should be permitted and which trade should not be permitted. So, I suggest that after the word "may" the words "on the recommendation of the commissioners" be put down. That is one reason. Another reason which I suggest to the House is that if this matter be left with the Government, as the Government here move very slowly and reluctantly, this clause would perhaps be a dead letter. I have personal experience, Sir, that Government very seldom, or perhaps almost never, move in respect of these things. Unless an insistent demand comes, Government will not go out of their way to notify these things. I for myself would not depend wholly and solely upon Government but would leave the initiative to the commissioners concerned.

3-45 p.m.

Mr. NARENDRA KUMAR BASU: I rise to oppose this amendment. My friend, Rai Bahadur Dr. Dutt, forgets that clause (*xiv*) is a residuary clause; after the prohibitions mentioned in clauses (*i*) to (*xiii*) this clause prohibits any trade, process or business which the Local Government may, by notification, declare to be an offensive or

dangerous trade. I submit that in the matter of a declaration of that nature, it ought not to depend on the commissioners of a particular municipality and if any new business is started which the Local Government thinks to be offensive, the Local Government ought to have power to move in the matter even without the recommendation of a particular municipality.

Babu SATYENDRA NATH ROY: Sir, I beg to support the amendment. At present, the practice is that the municipal commissioners generally ask the Local Government to fix any scale of fees for any new trade or business; so it is only reasonable that the Local Government should fix the scale on the recommendation of the commissioners. As my friend, the mover of the amendment, has said, the commissioners have knowledge of the local conditions, but the Government may not have such local knowledge. I, therefore, think that it is only reasonable that these words should be inserted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment exactly on the same grounds as pointed out by Mr. Basu. If this amendment is accepted, the effect will be that licenses should be issued if the commissioners recommend, otherwise not; and it is quite likely that the commissioners may be influenced by rich traders in a rich locality. (A VOICE: That is a libel.) It is not a libel, because I do not mention any particular commissioner, but I say commissioners generally. Human nature being what it is, we must make some allowance for that and I think it should not be left to the commissioners of a particular municipality to determine whether a particular trade is dangerous or not, because the commissioners would then have to wait till it is proved that it is a dangerous or offensive trade. It is something subjective and not objective. So it must be left to the Local Government to declare, without reference to a particular municipality, whether a trade is dangerous or not.

The motion of Rai Bahadur Dr. Haridhan Dutt was then put and lost.

Mr. PRESIDENT: The question is that clause 354, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 355.

Mr. PRESIDENT: The question is that clause 355 stand part of the Bill.

The motion was put and agreed to.

Clause 356.

Mr. PRESIDENT: The question is that clause 356 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in clause 356 (*1*), in line 5, after the word "commissioners" the following be inserted, namely:—

> "The commissioners shall levy a fee on such licensees according to a scale of fees to be prepared by the commissioners at a meeting."

Sir, when dairymen, milkmen, cartmen, liveried stable-keepers or keepers of hackney carriages have to take licenses, there ought to be some sort of scale showing the amount of licenses these people have to pay. I think, Sir, that if there be some such license-fee, it will be good source of income to the municipality and this ought to be provided in the present Bill. As for the amendment, I know it is a hopeless task under present conditions and it is no use to make any appeal to the good-sense of the Hon'ble Minister or Members of the Government because I find that good-sense does not prevail and I can hardly expect any good-sense from persons who do not know when to say "Aye" or "No". As regards a good taste or a bad taste, certainly a medical man will have to take lessons from the Hon'ble Minister!

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment, because I do not think that it is necessary to fix any license fee. We should leave it to the commissioners to determine whether they should charge any fees or not and I see no use in fettering their discretion.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Mr. PRESIDENT: The question is that clause 356 stand part of the Bill.

The motion was put and agreed to.

Clauses 357 to 359.

Mr. PRESIDENT: The question is that clauses 357, 358 and 359 stand part of the Bill.

The motion was put and agreed to.

Clause 360.

Mr. PRESIDENT: The question is that clause 360 stand part of the Bill.

Maulvi SYED MAJID BAKSH: Sir, I submit that there is a mistake in this amendment. What I want to do is to insert the words "without interference with religious rites" after the word "diseases" in the next line and not after "dangerous diseases". I hope there will be no objection to my moving the following amendment:—

"That in clause 360, in line 13, after the word 'diseases' the words 'without interference with religious rites' be inserted."

Sir, my object of moving this amendment is that the officers should see that they do not interfere with the religious rites when supervising funerals of persons and in order to avoid such difficulties, I move this amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I think it should be left to the commissioners to see whether they can provide for the supervision of funerals without interfering with religious rites. Certainly the commissioners will not be so unreasonable as to interfere with religious rites if they can possibly avoid it.

The motion of Maulvi Syed Majid Baksh was then, by leave of Council, withdrawn.

Mr. PRESIDENT: The question is that clause 360 stand part of the Bill.

The motion was put and agreed to.

Clause 361.

Mr. PRESIDENT: The question is that clause 361 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that in clause 361, in line 13, for the word "give" the words "shall give" be substituted.

Sir, it is a printing mistake.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 361, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 362.

Mr. PRESIDENT: The question is that clause 362 stand part of the Bill.

Maulvi SYED MAJID BAKSH: Sir, I beg to move that after clause 362 (*4*) the following be inserted, namely:—

"provided that such female should not be so removed against her will or without her consent."

Sir, this is a clause which provides for the removal of a female who, according to the custom of the country, does not appear in public. What I submit is that such a female should not be removed against her will, *i.e.*, she should not be forcibly removed.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, sufficient safeguards have been provided in sub-clauses (*1*), (*2*) and (*4*) and even if she is removed against her will, I think she will be removed subject to those safeguards. There is not much apprehension about that. I think dangerous diseases should be treated as dangerous and we must take into consideration the safety of the whole municipal population and that is certainly more important than anything else.

The motion of Maulvi Syed Majid Baksh was then put and lost.

Mr. PRESIDENT: The question is that clause 362 stand part of the Bill.

The motion was put and agreed to.

Clause 363.

Mr. PRESIDENT: The question is that clause 363 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that in clause 363 (*1*), in line 1, for the word "If" the following be substituted, namely:—

"In any municipality to which this section may at any time be extended by the Local Government, if".

My object is plain; the powers given in this section are very drastic and I do not want the powers to vest automatically in all municipalities

as soon as the Bill is passed. I want to leave it to the Local Government to extend the drastic powers to any municipality at any time that the Local Government please to do and when the occasion for doing so arises.

4 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It should come within the ordinary duties of a municipality. It is a new clause and is certainly an improvement. If such a matter as this should depend on the Local Government, then what will the municipality do? The first clause is if the commissioners are of opinion that any building or part thereof is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, and the second part is that if the commissioners are of opinion that the cleansing, lime-washing or disinfecting, as the case may be, of any building or any part of a building, or of any tank or pool, or well adjacent to a building, etc. . . . . These are some of the most ordinary duties, the primary duties of a municipality——

Mr. NARENDRA KUMAR BASU: Supposing it is a private house?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It may be necessary. Suppose there was a case of small-pox in a private house; it is in the interests of the other people that the municipality should have free access into the house and use their power. Should it depend upon a notification from Writers' Buildings before this action can be taken? Is it a reasonable proposition?

The motion of Mr. Narendra Kumar Basu was then put and lost.

Mr. PRESIDENT: The question is that clause 363 stand part of the Bill.

The motion was put and agreed to.

Clauses 364 to 385.

Mr. PRESIDENT: The question is that clauses 364 to 385 stand part of the Bill.

The motion was put and agreed to.

Clause 386.

Mr. PRESIDENT: The question is that clause 386 stand part of the Bill.

Maulvi SYED MAJID BAKSH: I beg to move that clause 386 (*3*) (*a*) be omitted.

I think that (*b*) is sufficient, as that will cover my object. The two sub-sections seem to be overlapping.

Babu BENOD BIHARI SARKAR: I beg to oppose this amendment. Power has been left to the commissioners and this refers only to municipal markets. Why should not the municipal commissioners have power to say that the shops and stalls in a municipal market should not be closed except with their permission? There is no overlapping.

The motion of Maulvi Syed Majid Baksh was put and lost.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 386 (*4*), in lines 1 and 2, the words "or, with the sanction of the District Magistrate, without", be omitted. I think that municipal slaughter-houses may be situated within or without municipal limits, and this addition is meaningless.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment because it has been necessary sometimes to have slaughter-houses outside a municipal area for reasons which are painfully well known to my friends here. So I would not like to refer to that. If a municipality has a municipal slaughter-house outside its municipal limits, certainly the District Magistrate's sanction is necessary.

Maulvi TAMIZUDDIN KHAN: I beg to support the amendment. Of course there may be reasons to support the Hon'ble Minister's statement, but I think we are going beyond our jurisdiction in legislating matters as regards areas outside the municipality. Therefore, it is not at all proper to go beyond our jurisdiction. Other persons may have a say in the matter.

Mr. NARENDRA KUMAR BASU: I beg to oppose this amendment. The fact of the matter is, if Mr. Tamizuddin will read the clause, he will find that option is given to the municipality to locate its slaughter-house either within or without the municipal limits. And,

says the Bill, if it is located without the limits of the municipality, the municipality must get the sanction of the District Magistrate. By the amendment it is sought that all slaughter-houses must be within the municipal area. There may be practical difficulties in having slaughter-houses within the municipal area. By accepting this amendment, we force the municipality to have slaughter-houses within the municipal limits or not at all. This certainly is not desirable.

The motion of Maulvi Syed Majid Baksh was then put and lost.

Mr. PRESIDENT: The question is that clause 386 stand part of the Bill.

The motion was put and agreed to.

Clauses 387 and 388.

Mr. PRESIDENT: The question is that clauses 387 and 388 stand part of the Bill.

The motion was put and agreed to.

Clause 389.

Mr. PRESIDENT: The question is that clause 389 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: I beg to move that after clause 389 (*l*) (*ii*) the following be inserted, namely:—

"(*iii*) sit on the roadside, passage, pathway or any *bustee* land for the purpose of exposing for sale any kind of meat intended for human consumption;

(*iv*) if anybody does so the commissioners shall have power to seize his articles and to prosecute him or to deal with him in such manner as the commissioners may deem fit for the purpose of stopping such act".

This is a very objectionable practice, and this should be checked anyhow. This causes obstruction to the pedestrians and gets mixed up with dust and other unhealthy things, and it will be very difficult for sanitary inspectors or food inspectors to detect whether the meat is good or not. It has been often found that in towns hawkers sit on the roadside or on some pathway and there they expose their meat for sale. If that is not checked——

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. May I point out that the provision for which Dr. Ghose is moving should not come here but in Chapter XIX, clause 402 (*d*)——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It is actually out of place here.

Dr. AMULYA RATAN GHOSE: I want to postpone the consideration of this amendment till that clause is taken up.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: This amendment is out of place here. It refers to a particular clause of the Bill. How can it be shifted in this way, and be made applicable to another clause of the Bill?

Mr. PRESIDENT: I can allow Dr. Ghose to move it as a short-notice amendment later on. He can withdraw this amendment now.

The motion of Dr. Amulya Ratan Ghose was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that clauses 389 and 390 stand part of the Bill.

The motion was put and agreed to.

Clause 391.

Mr. PRESIDENT: The question is that clause 391 stand part of the Bill.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 391 (*1*), in line 7, the words "or animals of any specified description" be omitted.

This clause will give rise to difficulties if the municipalities come into the hands of particular persons. If there are Jains, they will prohibit the slaughter of goats; then other persons will prohibit the slaughter of other animals; the Mussalmans will prohibit the slaughter of pigs; and enormous difficulties will arise. This power should not be given to the municipality. If they establish slaughter-houses, let all animals be slaughtered there. You should not make any invidious distinction. The Hon'ble Minister should consider twice before he opposes this amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment because the suggestion of Maulvi Syed Majid Baksh is not quite practical. It is exactly the reason that has been given by him which has induced Government to put in this clause, because there may be religious as well as communal objections, and I think that is more important than the mere convenience of the consumers. Moreover, it may entail a loss to the butchers. If pigs and cows were slaughtered at the same place, both Hindus and Mussalmans will not use the meat; so it is better that different slaughter-houses should be provided.

Maulvi TAMIZUDDIN KHAN: I do not understand what is actually meant by the words "private slaughter-houses." Are we going to encroach upon the rights of private persons to slaughter animals in their own houses? I do not know what is the intention of the Government in bringing in this clause.

Mr. H. P. V. TOWNEND: This section provides for places for animals to be slaughtered which are intended for sale. It will be seen that there are safeguards to provide against the commissioners abusing their powers. There are certain conditions, namely, "with the approval of the Local Government," and "with the sanction of the District Magistrate," when they do it outside municipal limits. There is no danger of the power being misused.

4-15 p.m.

Khan Bahadur Maulvi AZIZUL HAQUE: The clause is for licensing private slaughter-houses to empower the municipal commissioners to grant licenses for the use of any premises either within or without municipal limits. It is perfectly all right when the Bill provides that municipal slaughter-houses may be situated within or without municipal limits, but in this section any slaughter-house which is a private slaughter-house and situated outside municipal limits is to be licensed. Why should you go beyond your jurisdiction and control such private slaughter-houses outside municipal limits? The other clause is perfectly all right, because it refers to municipal slaughter-houses outside the limits of municipalities for the sale of flesh for human consumption. But by this section it comes to license if a man has a slaughter-house in a district board area for the purpose of sale of flesh even outside the municipal limits. I think you would be going beyond the scope of this Bill in trying to control it.

Mr. NARENDRA KUMAR BASU: I think Khan Bahadur is speaking under a delusion. If the meat is intended for sale within the municipal limits, then the municipality should have some control

over the animal which is to be slaughtered. For the sale of flesh for human consumption in a municipal area must mean that. Therefore, these words are necessary.

Mr. B. C. CHATTERJEE: May I suggest the addition of the words "for human consumption within the municipal area?"

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I accept the suggestion because that is the intention of the section.

Khan Bahadur Maulvi AZIZUL HAQUE: I also accept it.

Reverend B. A. NAG: Will that mean that no slaughter can be done outside the municipal area? If it is put in that way, would it not mean exclusively for the people living within the municipality?

Khan Bahadur MUHAMMAD ABDUL MOMIN: There seems to be some confusion here. There are two points which require to be cleared up; the first point which has been raised by Khan Bahadur Azizul Haque is that a private slaughter-house which has been established outside the municipal limits should not require anybody's sanction and the second point is that it ought to require sanction if the sale of the flesh is intended for human consumption within a municipality. I believe if you put the section in this way that the sale of flesh is intended for human consumption within the municipality, that will not take away all the objections from this section because when a slaughter-house is established outside municipal limits, the difficulty will be to ascertain whether the meat of the animal which is slaughtered is brought wholly into the municipality or a part is sold outside the municipal limits over which the District Magistrate or anybody has no power of control and a part is brought within the municipality for sale. Therefore, if the words "without the limits of the municipality" be deleted, I think everybody's objection will be met.

Mr. PRESIDENT: Would it not be better if we disposed of Khan Bahadur Azizul Haque's amendment first?

Khan Bahadur Maulvi AZIZUL HAQUE: That would be better if my amendment is disposed of first. I move formally that in clause 391 (*1*), the words "within the limits of the municipality" be added.

Mr. SHANTI SHEKHARESWAR RAY: I must oppose both the amendments. I think the municipalities ought to have some control over what sort of animal is brought into the municipality for slaughter. A Moslem should not be allowed to open a slaughter-house in a predominantly Hindu quarter because the slaughter of some animals may cause inconvenience to them. I think the municipalities will see that no one gives offence to any community.

As regards Khan Bahadur Azizul Haque's amendment for adding the words "within the municipality" it ought not to be accepted, because the animal may be slaughtered within the municipality and the flesh sold outside it.

The motion of Maulvi Syed Majid Baksh was then put and lost.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I beg to move that in clause 391 (*1*), lines 5 and 6, the word "either" and the words "or, with the sanction of the District Magistrate, without" be omitted. This is a short-notice amendment.

Mr. B. C. CHATTERJEE: I have also suggested the addition of the words "within the municipal limits." This is a matter of grammar.

Mr. PRESIDENT: I do not know who gave the idea or the words and who borrowed the same, nor do I know whose grammar is more grammatic.

Mr. B. C. CHATTERJEE: I want to say that the words should come after the word "consumption" and not here; otherwise it would make absolutely bad English.

Mr. PRESIDENT: Why?

Mr. B. C. CHATTERJEE: It would then read thus: "sale of flesh within the municipality for human consumption;" that is what Khan Bahadur Azizul Haque's suggestion comes to.

Khan Bahadur Maulvi AZIZUL HAQUE: I have not the privilege of crossing seas, but I consider "for the purpose of human consumption within a municipality" just as good. That being so, it does not matter whether the words come after "consumption" or not.

Mr. B. C. CHATTERJEE: May I rise on a point of order?

Mr. PRESIDENT: It is absolutely immaterial to me whether the Khan Bahadur accepts or does not accept your suggestion. In any case a controversy over grammar cannot be a subject for a point of order. The member who brings forward an amendment can claim it as his property and as such he has the right to move it even if it is written in rotten English. You cannot prevent him from doing so by a parade of your superior knowledge of that language.

4-30 p.m.

Mr. B. C. CHATTERJEE: Sir, we seem to be at cross purposes.

Mr. PRESIDENT: It may be so. If your friendly advice is accepted by the Khan Bahadur, I have not the least objection, but you cannot ask me to put certain words at certain places without his consent.

Khan Bahadur Maulvi AZIZUL HAQUE: My idea is "for the sale within municipal limits and not for consumption within municipal limits." You can put it, Sir, in any way you like.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I would earnestly appeal to you not to place this amendment before the House. Let us have five minutes to consider this matter. If this amendment is carried, it will lead to serious results. It may lead to communal riots.

Mr. PRESIDENT: Very well, let us adjourn for 15 minutes for prayer.

[At 4-35 p.m. the Council was adjourned and it reassembled at 4-50 p.m.]

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, may I move my short-notice amendment? I beg to move that in clause 391 (*1*) the word "either" and the words "or, with the sanction of the District Magistrate without" be omitted. The clause will read thus—

"Notwithstanding anything contained in section 386, the commissioners at a meeting may, subject to such conditions as they may impose with the approval of the Local Government, grant and withdraw licenses, for the use of any premises within the limits of the municipality,....."

Khan Bahadur Maulvi AZIZUL HAQUE: May I suggest that Khan Bahadur Momin's amendment may have precedence over mine? If his motion is accepted, I shall not press my amendment.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I understand that the object of this amendment is this: that so far as slaughter-houses outside municipal areas are concerned, the municipalities have no concern with them and cannot control them. But where meat is sold in a stall within a municipality, it ought to be kept in a wholesome condition and for that reason it is necessary that the animal should be killed in a slaughter-house which has been licensed. For this reason I think if you omit the words according to the suggestion of Khan Bahadur Momin, that will not be sufficient unless you add something to the clause like this: after omitting the words suggested by the Khan Bahadur, I would suggest the addition of some words like the following:—

"That in clause 391 (*1*), line 8, after the words 'human consumption' the words 'and it shall be open to the commissioners with the sanction of the District Magistrate to provide by rules that no meat shall be sold within the municipality unless it has been killed in a licensed slaughter-house within or without the municipality' be added."

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I am prepared to accept Dr. Sen Gupta's amendment.

Mr. PRESIDENT: Please do not further complicate the matter.

Mr. H. S. SUHRAWARDY: Sir, I think my learned friend is wrong. This does not concern any slaughter-house being established within the municipality. It concerns slaughter-houses outside the municipality. As for Khan Bahadur Azizul Haque's amendment, I need not refer to it at this stage. So far as the drafting of the original clause itself is concerned, in my humble submission it is absolutely wrong and unworkable. It says "the commissioners at a meeting may, subject to such conditions as they may impose with the approval of the Local Government, grant and withdraw licenses, for the use of any premises either within or, with the sanction of the District Magistrate, without the limits of the municipality....." If a person wants to have a slaughter-house outside the municipality and makes no application whatsoever for a license, I cannot see how anybody can grant a license. If he wants to establish a slaughter-house outside a municipality, how can any municipality forbid him to do so when he has not asked for permission and when no license has been granted to him? I cannot understand the meaning of the draft as it is, because it is absolutely meaningless, and so I support Khan Bahadur Momin's amendment. If there is any difficulty with regard to the placing before the House of the amendment of Dr. Sen Gupta, namely, that the municipality may by rules prevent meat that has been slaughtered outside the municipality from coming within the municipality, Khan

Bahadur Momin has already said that he has no objection to this amendment. But what I want to say is how can you withdraw a license from a person to whom you have not granted it and how can you grant a license to a person who has not asked for it. I think, Sir, the Hon'ble Minister will be well-advised to accept Khan Bahadur Momin's amendment if he considers that a well-considered Bill like this should not be stultified by a bad clause.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, the Bill clause provides for slaughter-houses both within and without the municipality, and it has been drafted to meet difficult situations which may arise. For instance, there may be a municipality in which the population is predominantly Hindu or a municipality where the population is predominantly Muhammadan, and there it may be necessary in order to avoid communal difficulties and to avoid the wounding of communal feelings to have slaughter-houses outside the municipal area. That is, Sir, what is provided for in this clause. If Khan Bahadur Abdul Momin's amendment is carried, then the option of having slaughter-houses outside the municipality goes out altogether. A slaughter-house, whether it is private or public, makes no difference whatsoever, because people who are actuated by communal feeling would not care whether a slaughter-house is public or private. I think that it is very desirable that such a situation should be avoided, and the Bill clause which fully provides against any such situation should be accepted. If Khan Bahadur's amendment is carried, then a private slaughter-house must be situated within a municipality and not outside it. But, Sir, what difference does it make whether a slaughter-house is a private or a public slaughter-house to the man who is very anxious to fight with another community on communal grounds?

Mr. H. S. SUHRAWARDY: No communal feeling whatsoever is involved in this question.

Mr. NARENDRA KUMAR BASU: I beg to oppose both the amendments.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I have not yet finished, Sir. I only gave way to Mr. Suhrawardy. I would appeal both to my Hindu and Muhammadan friends not to try to insert any clause which may lead ultimately to communal difficulties. It may be said to the credit of the members belonging to both the communities that we have so far avoided all communal differences so far as this

Bill is concerned, in this House. Let us not be guided by any communal feeling or even unconsciously insert a clause which may lead to communal difficulty. Government took particular care to draft this Bill and they have tried to provide for all possible situations. It was not meant either to wound the feelings of Hindus or Muhammadans, but it was meant to meet all possible situations. With these few words I would again strongly appeal to Khan Bahadur as well as to my friend, Mr. Narendra Kumar Basu, not to press their point but to leave matters entirely to Government.

Mr. NARENDRA KUMAR BASU: I am sorry that the Hon'ble Minister thinks that I shall be wrong in pressing my point. I am also sorry that he should have thought that I am actuated by any communal feeling in this matter. Speaking for myself I want to look at the situation, purely from the municipal or health point of view. There is nothing communal in it so far as I can make out, and why there should be any talk of communal feeling with regard to this clause passes my comprehension. I think the matter should be looked at from this point of view, *viz.*, the wholesomeness of the meat sold. There are two aspects of the matter, the first the place where there is any meat to sell and, the other, where the meat is prepared, that is to say, the slaughter-house and the place where it is sold. The clause, as it is in the Bill, says, that it does not matter whether animals are killed within or without municipal limits; if this meat is for sale within a municipality, then the place must be licensed by the municipality and the municipality must control it. But by saying that it may be suggested that I am supporting Khan Bahadur Azizul Haque's amendment and letting us in for another difficulty. I am coming to that presently. So far as Khan Bahadur Momin's amendment is concerned, it is clear that it has got to be opposed; because if this meat comes into a municipality, it does not matter if it is slaughtered outside. The municipality must have the power to see that only wholesome meat comes into the municipal area; it does not matter whether it is killed within or without a municipality. The only thing that one has got to see is that it is wholesome meat that is brought within a municipal town from a slaughter-house outside the municipality and it is the bounden duty of the municipal commissioners to prohibit the entrance of unwholesome meat into the municipal limits. Therefore, I oppose Khan Bahadur Momin's amendment. As regards Khan Bahadur Azizul Haque's amendment, I object to that because, if you put down the words "for sale within the municipal limits," it might mean that if in a slaughter-house within a municipality the proprietor would kill only diseased animals, when the municipality tries to catch hold of the man in charge of the slaughter-house, he will say "I am not selling the meat within the municipality, but selling it to places outside the municipality. I am spreading infectious diseases outside municipal limits; therefore,

Mr. SHANTI SHEKHARESWAR RAY: I will say only a few words. We have been discussing this clause for a pretty long time. The attitude that Khan Bahadur Abdul Momin has taken up is not correct. There is no question of a municipal board or Government interfering with the right of any person to slaughter animals within a municipality or outside a municipality. But the question is that additional facilities should be provided to butchers to open slaughter-houses outside municipal areas in the interest of consumers within a municipality. That is the point. Sometimes arrangements for provision of meat may cause difficulty, because there may not be available suitable places within a municipality where slaughtering can take place, on sanitary grounds. I know instances where slaughter-houses could not be established within a municipality for want of good drains and had to be located outside the municipality. In the interest of butchers provision is sought to be made that if it is found that there are no proper places within a municipality, slaughter-houses may be opened with the sanction of the District Magistrate and that is the point to be emphasised in connection with these two amendments. It has nothing to do with interfering with the right of any person to slaughter any animals outside any municipal area.

Mr. B. C. CHATTERJEE: There is some confusion as to what we want to secure. If you take clauses 391 and 392 together, you will be able to see that clause 392 would obviate the objection that some of my friends have raised. This clause provides that no person shall slaughter any animal for the sale of its flesh for human consumption at any place within the municipality other than a municipal slaughter-house or a slaughter-house licensed under clause 391. This clause will also have to be so amended as to give municipalities power over slaughter-houses within the municipal limits, whether such slaughter-houses sold their meat inside a particular municipality or outside it. That is the first point. The second point is as my friend Mr. Basu has pointed out, that if meat comes within a particular municipality from outside, then I understand that nobody can judge of the meat by merely having a look at it without going to the slaughter-house where the meat is prepared, that is to say, if anybody has slaughtered an animal outside a municipality but wants to bring meat for sale within the municipality, then the municipality must have control over that slaughter-house also. At the same time we want to exempt from the control of the municipality a slaughter-house which is totally outside the municipality and which is not going to sell its meat in the municipality. That is what my friend wanted to provide by using the words "within the limits of the municipality." These are the three points:

...e first, that you may not have a slaughter-house inside a municipality, whether the meat is sold within or outside that municipality without municipal authorities having control over that slaughter-house. The second proposition is that if the slaughter-house is outside the municipality but such a slaughter-house wants to sell its meat inside the municipality in question, then such a municipality must have control over it. The third point is that no municipality shall control any slaughter-house outside its area, if such a slaughter-house does not want to sell its meat inside that municipal area.

These are the three points which require to be very carefully considered. I know of cases where the inhabitants of a municipality secure their supply of meat from a slaughter-house outside the municipal limits, but this would be shut out if Khan Bahadur Abdul Momin's amendment is carried.

Maulvi TAMIZUDDIN KHAN: I rise to oppose clause 391 as it stands in the Bill. I agree with most of what Mr. N. K. Basu and Mr. B. C. Chatterjee have said. But apparently we are losing sight of one thing. Supposing a slaughter-house is established 50 miles away from a municipal town and that meat from that house is never brought within a municipality for sale; the municipality will still have the power to control the slaughter-house. This clause leaves that loophole. Therefore, it is a most ludicrous and dangerous piece of legislation which we are going to enact here, because even if a slaughter-house is established beyond the limits of a municipal town, at whatever distance from the town it may be, it will be controlled by the municipality even if that meat never comes into that municipality for sale. Also it is not quite clear by which municipality such a slaughter-house should be controlled. Therefore, it is a most dangerous clause which we are going to pass; it is also most unhappily worded. Therefore, Sir, I oppose this clause and support the amendment of Khan Bahadur Abdul Momin.

Babu JATINDRA NATH BASU: This matter was very carefully considered when the Calcutta Municipal Act, 1923, was discussed by this Council and passed, and I would like to draw the attention of the House to section 396 of the Calcutta Municipal Act, which provides that (*1*) no person shall, without or otherwise than in conformity with the terms of a license granted by the Corporation in that behalf, (*a*) keep open any private market, or wilfully or negligently permit any place to be used as a private market; (*b*) use any place in Calcutta as a slaughter-house or stock-yard, or for the slaughtering of any animal intended for human food. And the next sub-clause, *viz.*, sub-clause (*c*), to which I desire to draw the particular attention of the House, deals with the matter now under discussion.

The sub-clause (*c*) of section 396 of the Calcutta Municipal Act to which I desire to call particular attention and which deals with this matter runs as follows:—

"(*c*) use any place without Calcutta, whether as a slaughter-house or otherwise, for the slaughtering of any animal intended for human food to be consumed in Calcutta."

Sir, that was the principle that was adopted after careful consideration in this Council.

Mr. H. P. V. TOWNEND: Sir, there are only two things that I would like to mention: The first is that a clause which is almost identical with this has been in force in the United Provinces since the year 1916 and the difficulties which are anticipated by so many members here have not arisen in the United Provinces. Next I would remark that a Municipal Act covers municipal areas. It is not concerned with anything done outside unless there is a special provision about it. The suggestion, therefore, which has been made, that slaughter-houses outside a municipality will be affected by this Bill, even if they are in no way connected with the municipality, is entirely unfounded. The point is that slaughter-houses connected with a municipality will come under this Bill and that slaughter-houses which are not connected with a municipality will not come under its provisions; so most of the difficulties suggested will not arise.

The motion of Khan Bahadur Muhammad Abdul Momin was then put and a division taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Bahadur.
Ali, Maulvi Nasim.
Ali, Maulvi Syed Nausher.
Ali, Mr. Altaf.
[illegible] Maulvi Syed Majid.
Bashir Uddin, Khan Sahib Maulvi [illegible]mmad.
[illegible]huri, Khan Bahadur Maulvi Ali-[illegible]zaman.
[illegible]huri, Maulvi Syed Osman Haider.
[illegible]hury, Maulvi Nural Absar.
[illegible]hury, Haji Badi Ahmed.
[illegible]hury, Maulvi Abdul Ghani.
[illegible]l, Maulvi Nur Rahman Khan.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Haque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Huq, Mr. A. K. Fazl-ul.
Khan, Khan Bahadur Maulvi Mozammel Ali.
Khan, Maulvi Tamizuddin.
Khan, Mr. Nazar Rahman.
Momin, Khan Bahadur Muhammad Abdul.
Rahman, Maulvi Azizur.
Rahman, Mr. A. F. M. Abdur.
Saadatullah, Maulvi Muhammad.
Samad, Maulvi Abdus.
Shah, Maulvi Abdul Hamid.
Suhrawardy, Mr. H. S.

NOES.

Bell, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Dr. Jogendra Chandra.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Gangali, Rai Bahadur Sushi Kumar.
Ghose, Dr. Amulya Ratan.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Henderson, Mr. A. G. R.
Khan, Maulvi Amin-ur-Zaman.
Maiti, Mr. R.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Mullick, Mr. Mukunda Behary.
Nag, Reverend B. A.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. G. V.
Poddar, Mr. Ananda Mohan.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Roy, Babu Satyendra Nath.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Roy Chaudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Sarkar, Babu Bosed Bihari.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Stapleton, Mr. H. E.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 27 and the Noes 51, the motion was lost.

The motion of Khan Bahadur Maulvi Azizul Haque was then put and lost.

Mr. PRESIDENT: The question is that clause 391 stand part of the Bill.

The motion that clause 391 stand part of the Bill was then put and a division taken with the following result:—

AYES.

Armstrong, Mr. W. L.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Dr. Jogendra Chandra.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Forrester, Mr. J. Campbell.
Gangali, Rai Bahadur, Sushi Kumar.
Ghose, Dr. Amulya Ratan.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Henderson, Mr. A. G. R.
Khan, Maulvi Amin-ur-Zaman.
Maiti, Mr. R.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Mullick, Mr. Mukunda Behary.
Nag, Reverend B. A.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. G. V.
Poddar, Mr. Ananda Mohan.

Rai Mahasai, Munindra Deb.	Sarker, Babu Bonod Bihari.
Ray, Babu Khetter Mohan.	Sarker, Rai Sahib Rebati Mohan.
Reid, the Hon'ble Mr. R. N.	Sen, Mr. B. R.
Ross, Mr. J.	Sen Gupta, Dr. Naresh Chandra.
Roy, Babu Satyendra Nath.	Stapleton, Mr. H. E.
Roy, Mr. Baleswar Singh.	Thompson, Mr. W. H.
Roy, Mr. Sarat Kumar.	Townend, Mr. H. P. V.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.	Twynam, Mr. H. J.
Roy Choudhuri, Babu Hem Chandra.	Wilkinson, Mr. H. R.
Sahana, Babu Satya Kinkar.	Woodhead, the Hon'ble Mr. J. A.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.	Hakim, Maulvi Abdul.
Ali, Maulvi Hassan.	Haque, Khan Bahadur Maulvi Azizul.
Ali, Maulvi Syed Nausher.	Heque, Kazi Emdadal.
Baksh, Maulvi Syed Majid.	Hossain, Maulvi Muhammad.
Bashir Uddin, Khan Sahib Maulvi Mohammed.	Huq, Mr. A. K. Fazl-ul.
Chaudhuri, Khan Bahadur Maulvi Ali-Muzzaman.	Khan, Khan Bahadur Maulvi Muazzam Ali.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.	Khan, Maulvi Tamizuddin.
Choudhuri, Maulvi Syed Osman Haidar.	Khan, Mr. Razaur Rahman.
Choudhury, Maulvi Nural Absar.	Momin, Khan Bahadur Muhammad Abdul.
Chowdhury, Haji Badi Ahmed.	Rahman, Maulvi Azizur.
Chowdhury, Maulvi Abdul Ghani.	Rahman, Mr. A. F. M. Abdur.
Eusufji, Maulvi Nur Rahman Khan.	Ray, Babu Amulyadhan.
	Saadatullah, Maulvi Muhammad.
	Sambd, Maulvi Abdus.
	Shah, Maulvi Abdul Hamid.
	Suhrawardy, Mr. H. S.

The Ayes being 57 and the Noes 28, the motion was carried.

5-30 p.m.

Clause 392.

Mr. PRESIDENT: The question is that clause 392 stand part of the Bill.

Mr. H. P. V. TOWNEND: With your permission, Sir, I beg to move that in clause 392, the words "at any place" be omitted from line 2 and inserted in line 3 after the word "municipality."

The object of this is to make it quite certain that a municipality can permit slaughter either within or without its limits, whichever is suitable to the municipality.

The motion of Mr. H. P. V. Townend was put and agreed to.

Mr. PRESIDENT: The question is that clause 392, as amended by the Council, stand part of the Bill.

The motion was put an agreed to.

Clauses 393 to 398.

Mr. PRESIDENT: The question is that clauses 393 to 398 stand part of the Bill.

The motion was put and agreed to.

Khan Bahadur Maulvi AZIZUL HAQUE: On a point of order, Sir. We were not supplied with a copy of the amendment moved by Mr. Townend, and to some of us it was very difficult to know what will be the effect of the amendment as passed.

Mr. PRESIDENT: When I put that amendment, you should have said this then that you did not follow Mr. Townend very closely and wanted to see his amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: I bow to your decision, Sir; but I was turning over the pages to find out what would be the effect of this amendment. At least the House was not told that there was a short-notice amendment.

Mr. H. P. V. TOWNEND: I said "with your permission."

Khan Bahadur Maulvi AZIZUL HAQUE: It may be "with your permission", but whether notice has been given or not——

Mr. PRESIDENT: You are, perhaps, aware that the Chair possesses the power to allow an amendment to be moved at short notice or even without any notice.

Khan Bahadur Maulvi AZIZUL HAQUE: I am not questioning the amendment, Sir, but I want to know what the effect of the passing of this amendment will be.

Mr. PRESIDENT: That is a different matter altogether.

Clauses 399 to 401.

Mr. PRESIDENT: The question is that clauses 399 to 401 stand part of the Bill.

The motion was put and agreed to.

Clause 402.

Mr. PRESIDENT: The question is that clause 402 stand part of the Bill.

Maulvi TAMIZUDDIN KHAN: I beg to move that after clause 402 the following be added, namely:—

"Provided that an appeal shall lie to the Local Government against an order refusing a license and the decision of the Local Government in that behalf shall be final."

Sir, my object is that in many——

Mr. NARENDRA KUMAR BASU: May I point out that clause 516A gives that provision?

Maulvi TAMIZUDDIN KHAN: In that case, Sir, I want to withdraw my amendment.

The motion of Maulvi Tamizuddin Khan was then, by leave of the Council, withdrawn.

Dr. AMULYA RATAN GHOSE: With regard to clause 402, I beg to move an amendment at short notice. You have given me instruction to do this.

Sir, I beg to move that after sub-clause (*b*) of clause 402 the following be inserted, namely:—

"(*c*) sit on the roadside, passage, pathway or any *bustee* land for the purpose of exposing for sale any kind of meat intended for human consumption;

(*d*) if anybody does so, the commissioners shall have power to seize his articles and to prosecute him or to deal with him in such manner as the commissioners may deem fit for the purpose of stopping such act."

Sir, the purpose of my amendment is quite clear. My esteemed friend, Mr. N. K. Basu, told us that clause 402 would serve the purpose, but so far as I can see, Sir, it would not. It is my experience that people who have got no license from the municipality sell meat on the roadside and this is a real danger both for the consumer and for the pedestrians who are obstructed by such hawkers who sit on the roads and expose their meat for sale. My amendment will show that this clause is not sufficient. For anybody doing this, if his articles are not seized forthwith or if he is not prosecuted then and there, it will not be possible for the municipality to get hold of him and take steps against

him later on. As for the sanitary inspectors, they will not have the opportunity to inspect those places where they sell their meat at random whenever and wherever they like, and, therefore, no food inspector or sanitary inspector will be able to detect bad meat which is being sold thus. For the benefit of the people who will consume that meat, it is necessary that those articles should be examined forthwith when sold without a license, and the commissioners should have the power to deal with such persons in such a manner as they think fit to stop these illegal acts. With these few words, Sir, I commend my motion to the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. I do not think this provision, as suggested by the hon'ble mover, is necessary. If a man obstructs a public thoroughfare and sells meat, he will come under clause 34 of the Police Act of 1861, namely, "any person who, on any road or in any (open place or) street or thoroughfare within the limits of any town to which this section shall be specially extended by the Local Government, commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, danger or damage of the (residents or passengers) shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, etc., etc."

So, I do not think this clause is at all necessary. I oppose this. When one does it occasionally, this clause is sufficient, but if he does it habitually, he comes under the Police Act.

Dr. AMULYA RATAN GHOSE: I have not mentioned only public thoroughfares which come under the Police Act, but there are pathways, passages, *bustees* and other places——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, the words "public places" appear in section 34 of the Police Act.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Mr. PRESIDENT: The question is that clause 402 stand part of the Bill.

The motion was put and agreed to.

5-45 p.m.

Clauses 403 and 404.

Mr. PRESIDENT: The question is that clauses 403 and 404 stand part of the Bill.

The motion was put and agreed to.

Clause 405.

Mr. PRESIDENT: The question is that clause 405 stand part of the Bill.

Babu SATYENDRA NATH ROY: I beg to move that in clause 405 (*1*), in line 1, after the word "expose" the word "send" be inserted.

The object of my amendment is that the export of rotten food from municipal jurisdiction should not be allowed. The insertion of the word "send" would serve that purpose.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY : I rise to oppose this amendment. The word "send" is meaningless. "Send" means send for sale.

Mr. B. C. CHATTERJEE: I would request Mr. Roy to withdraw his amendment in favour of the next amendment.

Babu SATYENDRA NATH ROY: I beg to withdraw it.

The motion of Babu Satyendra Nath Roy was then, by leave of the Council, withdrawn.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 405, in line 2, after the words "hawk about for sale" the words "send out for sale" be inserted.

Mr. B. C. CHATTERJEE: I would request the Hon'ble Minister to accept this. It is a very simple thing.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I oppose this motion. The man who sends out for sale really sells it and the man who is really responsible is the man who sends it out. There is no difference.

Dr. NARESH CHANDRA SEN GUPTA: It does make a difference. A man within the municipality of Krishnagar sends out from the municipal jurisdiction a thing for sale in Calcutta because it is difficult for him to sell the thing in that municipality. For that reason the words "send out for sale" would help matters.

MUNINDRA DEB RAI MAHASAI: I support this amendment. Unwholesome food unfit for human consumption are sent out for sale railway stations and no action can be taken at present.

Mr. H. P. V. TOWNEND: I have not been able to follow the real distinction which is precisely the argument of Dr. Sen Gupta. Suppose a person sends out for sale by post or sends out on the head of a person a wrapped up parcel to any municipality; there is no possible way to prevent it. The words are much too wide.

Mr. NARENDRA KUMAR BASU: You ought to make the penal law as wide as possible so as to prevent the bringing in of diseased animals for human consumption.

Khan Bahadur MUHAMMAD ABDUL MOMIN: The difficulty will be that if a man sends out a thing in a very good condition, for instance, *sarbhaja*, from Krishnagar, by that time it reaches here it may be in a rotten condition.

The motion of Dr. Amulya Ratan Ghose was then put and a division taken with the following result:—

AYES.

Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. S. C.
Chaudhuri, Babu Kisheri Mohan.
Das, Rai Bahadur Satyendra Kumar.
Ghose, Dr. Amulya Ratan.
Guha, Babu Profulla Kumar.
Maiti, Mr. M.
Mittra, Babu Sarat Chandra.
Poddar, Mr. Ananda Mohan.
Rai Mahasai, Manindra Deb.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Hemanta.
Roy, Babu Satyendra Nath.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Hem Chandra.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chowdhuri, Maulvi Syed Osman Haider.
———, Haji Badi Ahmed.
Chowdhury, Maulvi Abdul Ghani.
Coppinger, Major-General W. V.
Cooper, Mr. G. G.
Ezmufji, Maulvi Nur Rahman Khan.
Farooqui, the Hon'ble Maulvi K. G. M., Khan Bahadur.
Fazlullah, Maulvi Muhammad.
Forrester, Mr. J. Campbell.
Ganguli, Rai Bahadur Sushi Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Mr. P. N.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hoque, Kazi Emdadul.
Khan, Maulvi Amin-ur-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Yamizuddin.
Khan, Mr. Razaur Rahman.
Kittor, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. G. V.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Reid, the Hon'ble Mr. R. N.

Roy, Mr. Saileswar Singh.	Suhrawardy, Mr. H. S.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.	Thompson, Mr. W. H.
Samad, Maulvi Abdus.	Townend, Mr. H. P. V.
Sarkar, Babu Benod Bihari.	Twynam, Mr. H. J.
Sarkar, Rai Sahib Rebati Mohan.	Wilkinson, Mr. H. R.
Sen, Mr. B. R.	Woodhead, The Hon'ble Mr. J. A.
Stapleton, Mr. H. E.	

The Ayes being 19 and the Noes 52, the motion was lost.

Mr. PRESIDENT: The question is that clauses 405 to 407 stand part of the Bill.

The motion was put and agreed to.

Clauses 408 to 412.

Mr. PRESIDENT: The question is that clauses 408, 409, 410, 411 and 412 stand part of the Bill.

The motion was put and agreed to.

Clause 413.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 413 (*1*), in line 3, the word "written" be omitted.

Sir, it is laid down in the Bill that "when any living thing, article of food, drug, utensil or vessel referred to in section 412 is seized under that section, it may, with the written consent....." I want to omit the word "written" because unfortunately our country has got very few literate persons. Therefore, it has always been found impracticable for municipal officers to obtain written consent from the parties. For that reason I say that the word "written" be omitted. If it is not done, it will be a practical difficulty for municipal officers to execute their work.

Khan Bahadur Maulvi AZIZUL HAQUE: I think my friend Dr. Ghose in spite of experience of municipalities has forgotten that this clause is in the interest of municipal officers also. There have been occasions in which verbal consent has been given, but I know of definite cases in which objection was raised later on the ground that no consent was given to the health officer to do certain things. So I think written consent should be given in the interest of municipalities as well as of the public.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I oppose the amendment on the same ground.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Mr. PRESIDENT: The question is that clause 413 stand part of the Bill.

The motion was put and agreed to.

6 p.m.

Clauses 414 to 420.

Mr. PRESIDENT: The question is that clauses 414 to 420 stand part of the Bill.

The motion was put and agreed to.

Clause 421.

Mr. PRESIDENT: The question is that clause 421 stand part of the Bill.

Maulvi SYED MAJID BAKSH: Sir, I beg to move that clause 421 be omitted.

Sir, this clause provides for the realisation of fees for dead bodies that are intended to be burnt or buried. I remember the story of Raja Harish Chandra in this connection.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, we are neither in the time of Raja Harish Chandra nor, I am sure, even his spirit can be found in India now. I oppose this amendment, because it is a purely permissive clause. I would refer the hon'ble member to section 259 of the existing Act which says: "The commissioners at a meeting may from time to time out of the municipal fund, with the sanction of the Local Government, provide fitting places to be used as burial or burning grounds, and may impose a fee not exceeding..... ....."

Therefore, it is unnecessary to omit this clause.

The motion of Maulvi Syed Majid Baksh was then put and lost.

Mr. PRESIDENT: The question is that clauses 421 to 428 stand part of the Bill.

The motion was put and agreed to.

Clause 429.

Mr. PRESIDENT: The question is that clause 429 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 429 (*2*), in lines 1 to 3, for the words "when required by the Local Government to do so, shall appoint at a meeting a person to be registrar of births and deaths for the whole" the words "may at a meeting appoint a registrar of births and deaths for the" be substituted.

I do not see any reason why the Local Government should thrust a registrar of births and deaths on a municipality. That ought and may, without any danger or difficulty, be left to the commissioners of the municipality themselves. For these reasons I move this amendment.

Babu SATYENDRA NATH ROY: Sir, I support this amendment because at present registrars of births and deaths are officers who get about Rs. 15 or Rs. 20 a month and there are no special qualifications attached to these posts, so I do not understand why such insignificant posts should be filled up by the commissioners at a meeting and why the Government should interfere in these matters.

Dr. NARESH CHANDRA SEN GUPTA: May I ask a question, Sir? Does the Government contemplate that the commissioners shall not have the power to appoint these officers unless the Local Government wants them to do so?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, this is based on the existing section on the subject. Mr. Roy says that it is not so. It is surprising that he being a chairman of a municipality should say this. I would refer him to section 347 of the existing Act which runs thus: "The Local Government may require the commissioners of any municipality to appoint and maintain at any burning *ghat* and burial ground a sub-registrar for the registration of all corpses..... ....." So unless the Local Government require a municipality to appoint a birth and death registrar, they are not required to spend money. I would remind the hon'ble members that they always ask questions about births and deaths and unless there is a statutory provision and unless the initiative is taken by Government, the municipalities are not likely to take any action. Sir, the collection of vital statistics is an important thing and I do not think that it should be left to the mere discretion of the municipal commissioners.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. Is the Hon'ble Minister entitled to mislead the House as to the provisions of the existing Municipal Act?

Mr. PRESIDENT: If the House chooses to be misled, I cannot help.

Mr. NARENDRA KUMAR BASU: Sir, the section is 346: "The commissioners of any municipality, when required by the Local Government to do so, shall provide for the registration of births and deaths within the limits of the municipality....." The next section is "The Local Government may require the commissioners of any municipality to appoint and maintain at any burning *ghat* and burial ground a sub-registrar for the registration of all corpses brought to such burning *ghat* or burial ground for cremation or interment." Sir, the two things are not the same as suggested by the Hon'ble Minister.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I do not see any distinction between the two.

Maulvi SYED BAJID BAKSH: On a point of information, Sir. Does the sub-registrar sit at the burning *ghat*?

Mr. H. P. V. TOWNEND: May I add, Sir, that this affects the vital statistics of the whole province and not of any particular portion?

The motion of Mr. Narendra Kumar Basu was then put and lost.

Babu SATYENDRA NATH ROY: Sir, I beg to move that in clause 429 (*2*), in line 2, the words "at a meeting" be omitted.

Sir, the sub-registrars, as I have already said while speaking on a previous amendment, get Rs. 15 or Rs. 20 a month. Sir, under the existing Act appointments carrying a salary of Rs. 50 are made by the chairman and those carrying more than Rs. 50 are made by commissioners at a meeting. So I do not see why these appointments should be made by the commissioners at a meeting.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, my friend seems to have misunderstood the words "at a meeting". It is not a question of appointment, but it is a question of appointment under an Act by which the ratepayers have certain responsibilities. The question is whether the commissioners at a meeting are prepared to put the Act into operation.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, the point is exactly as suggested by Khan Bahadur Azizul Haque. It is not a question of the appointment of a clerk. I quite appreciate the anxiety of Mr. Roy, who, as a chairman, is loth to take the approval of the commissioners at a meeting.

The motion of Babu Satyendra Nath Roy was put and lost.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that sub-clauses (*3*), (*4*) and (*5*) of clause 429 be omitted. I do not know if the attention of the Hon'ble Minister——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I inform the hon'ble member that I am prepared to accept his amendment?

The motion of Mr. Narendra Kumar Basu was put and agreed to.

Mr. PRESIDENT: The question is that clause 429, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 430.

Mr. PRESIDENT: The question is that clause 430 stand part of the Bill.

The motion was put and agreed to.

Clause 431.

Mr. PRESIDENT: The question is that clause 431 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that in clause 431—

(*a*) in line 1, after the words "whenever a" the words "birth or";

(*b*) in line 3, after the words "that all" the words "births and";

(*c*) in line 7, after the words "of such" the words "birth or"; and

(*d*) in line 9, after the words "of such" the words "birth or"

be inserted.

I only want to insert the word "birth." Vital statistics should be maintained both as regards births and deaths.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 431, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clauses 432 to 435.

Mr. PRESIDENT: The question is that clauses 432 to 435 stand part of the Bill.

The motion was put and agreed to.

Clause 436.

Mr. PRESIDENT: The question is that clause 436 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: Sir, may I have your leave to move amendments Nos. 1794, 1796, 1819 and 1824 together, because they are all inter-dependent on each other? The object of these amendments of mine is to give the municipality power to act under clauses 500 to 509. Under these clauses whenever there is a requisition by a municipality, the municipality can, without going to the length of applying to a Magistrate or court, enforce its requisitions. I submit that in cases of nuisances it is even more necessary that all avoidable loss or waste of time should be obviated. My idea is to give the municipality the power to deal with nuisances without the interference of courts.

Mr. PRESIDENT: The best thing for you would be to move your amendments separately.

Mr. NARENDRA KUMAR BASU: Sir, these four amendments are inter-dependent on each other. If the principle is accepted, all four will go through; otherwise they will all fail.

Mr. PRESIDENT: I think you had better move your amendment No. 1794 first.

Mr. NARENDRA KUMAR BASU: Very well, Sir, I beg to move that in clause 436 for the word "notice" in the three places where it occurs the word "requisition" be substituted.

As I said, Sir, it is even more necessary to have this power in the case of nuisances than in other cases. I submit that by my amendment the municipalities will have a quicker remedy in their hands than by what is provided in the clause.

6-15 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Is it a quicker remedy at all? What is the difference between a requisition and a notice here? A municipality does not go very largely by requisition but by the issue of notice.

Mr. NARENDRA KUMAR BASU: May I make the matter clear, Sir? If it is a notice, clause 437 will come in, and the person on whom such notice has been issued may go to the Magistrate who may give him a hearing and then some more time may be wasted in hearing appeals and so on. On the other hand, if it is a requisition, there is no going to a court or to a Magistrate; it is automatic.

Mr. H. P. V. TOWNEND: This is an amendment which raises the problem so often put before the House during the consideration of the Bill. It is a dilemma which has troubled some of my friends opposite not infrequently. On the one hand, they do not want to give Government much power over municipalities: but if they do not, they run the risk of exposing the ratepayers to maladministration of their affairs and abuse of powers by municipal commissioners.

Mr. NARENDRA KUMAR BASU: The whole chapter deals with nuisances alone.

Mr. H. P. V. TOWNEND: Yes, the whole chapter deals with nuisances, but there are very few among them of which it can be said that much harm will be done if we wait a few days more. Government's idea is that nuisances of this sort should not be dealt with in a summary fashion. The nuisances mentioned in clause 433 are long-standing nuisances. You do not get mosquitoes and fly maggots and things like that in a moment: they are the result of long-established neglect. Summary powers are not needed to deal with these. The other day I had to argue against an amendment moved by Dr. Ghose, that summary powers must be given. Now I have to argue that it is very likely that if such powers are granted to municipalities, they will be liable to abuse. There is a distinction. Stoppage of sewers and other nuisances mentioned in clause 227 with which Dr. Ghose dealt are such that delay in dealing with them would be dangerous: it is absolutely essential that there should be summary powers to deal with them given by Government, but would it be wise to give such powers generally to the commissioners of a municipality when the nuisances are not immediately dangerous?

Mr. NARENDRA KUMAR BASU: May I draw the member's attention to clause 433 (*2*)? There are grounds for giving summary powers there.

Mr. H. P. V. TOWNEND: But this type of nuisance does not arise suddenly or in a hurry; it grows up gradually and does not soon reach a state when summary action becomes absolutely essential. I am of opinion that none of the nuisances mentioned in the clause are such that summary action is absolutely essential to deal with them. In a well-constituted, a reasonably constituted, municipality action would be taken at an earlier stage. Some municipalities would be liable to abuse such powers and Government think it advisable that some protection should be given to the ratepayers against undue enthusiasm on the part of the commissioners. I oppose the amendment, Sir.

Dr. NARESH CHANDRA SEN GUPTA: I do not quite appreciate the argument of Mr. Townend. He apprehends that if this power is given to municipalities, then they may abuse their power and intervention of the District Magistrate would be necessary to prevent such power being abused. He is not quite right in saying that the nuisance may not be very serious, but sometimes they may be; but in any case when in a municipality there is a nuisance, why should the municipality be required to go through all the elaborate procedure by which the District Magistrate will have to intervene and do what can be done. On the contrary, if this power is given to the municipality to take action as suggested by Mr. N. K. Basu, all parties will get remedy. The District Magistrate has certain powers under the later sections of this Bill. So, if anything is being done under cover of stopping nuisances by means of summary powers, the party aggrieved can approach the District Magistrate to suspend the act and the District Magistrate can suspend it. It would always be open to an aggrieved party to go and appeal to the District Magistrate. I, therefore, see no reason for apprehending any real abuse of power to the detriment of the people without any remedy whatsoever. That remedy is provided in other sections of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose the amendment. The distinction has been clearly stated by Mr. Townend, I mean the distinction between nuisances contemplated in sections 500 and 501 and nuisances contemplated in 433. I would read out one or two clauses. Clause 433 (*iii*) says: "Any premises by reason of abandonment or disputed ownership or for any other reason remain untenanted and thereby become a resort of idle and disorderly persons." Of course some time must elapse before a house becomes a disorderly house: sub-clause (*iv*) also says "any school, factory, workshop or other trade premises so unclean as to be a cause of annoyance to the inmates, the neighbours or the public, or injurious to health, etc., etc." So that it must continue for some time before it comes to that

stage. Therefore, it is not one of those nuisances which require immediate attention and is a danger to public health and must be removed under the summary powers of the municipal commissioners. Here the person against whom this notice is issued or against whom the requisition is issued, should be given a hearing by the District Magistrate. If he wants to appeal to the District Magistrate, he can do so under this clause. Thus there is a distinction between the classes of nuisances contemplated in clauses 500 and 501 and under this clause. I do not think the procedure, as suggested by Mr. Basu, should be applicable to the nuisances contemplated by other sections.

The motion of Mr. Narendra Kumar Basu was then put and lost.

Mr. PRESIDENT: The question is that clause 436 stand part of the Bill.

The motion was put and agreed to.

New clause 436A.

Babu SATYENDRA NATH ROY: I beg to move that at the end of clause 436 the following be added, namely:—

"436A. An appeal shall lie to the District Magistrate against an order of the commissioners under section 436, and when such an appeal has been filed within fifteen days of the receipt of the notice under the said section, the commissioners shall not proceed under sub-section (*1*) of section 437 until the appeal has been disposed of. The District Magistrate may delegate to any Magistrate subordinate to him any powers and functions for the disposal of such appeals."

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I submit, Sir, this amendment is the same as 1811 and may be taken together.

Babu SATYENDRA NATH ROY: The object of my amendment is that if a party should have a right of appeal to the District Magistrate in case of nuisances, that appeal should be filed as early as possible, that is, within 15 days of the receipt of notice. This will satisfy many aggrieved parties because it will avoid civil litigation altogether. Sir, we have heard of many injustices done by municipal commissioners and chairman; so I think there should be this salutary clause so that if there is an appeal to the District Magistrate, the municipal commissioners will see that nothing is done unjustly.

Dr. NARESH CHANDRA SEN GUPTA: I oppose the amendment, Sir. This will be putting another spoke into the wheel of the machinery of the municipalities for dealing with nuisances. Already clause 437 provides for going to the District Magistrate. So what is the necessity for this appeal under this clause? The District Magistrate under section 437 will satisfy himself that there is a nuisance and will take action accordingly.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose the amendment, as the commissioners will get a full hearing under section 437 and the commissioners are supposed to act not without full justification; and when there is one provision for an appeal to the District Magistrate, I do not think it is necessary to have another provision.

The motion of Babu Satyendra Nath Roy was then, by leave of the Council, withdrawn.

Clause 437.

Mr. PRESIDENT: The question is that clause 437 stand part of the Bill.

Babu SATYENDRA NATH ROY: I beg to move that in clause 437 (*1*), in lines 7 to 10, for the words beginning with "cause a complaint relating to" and ending in the words "before him" the following be substituted, namely:—

"execute the works themselves and realise the costs thereof as if it were an arrear of taxes or by other legal process."

I think it is a very necessary amendment and I hope Government will see its way to accept the proposal.

Babu BENOD BIHARI SARKAR: This is almost a consequential amendment to No. 1795. The two taken together may have some meaning, but one without the other has got no meaning. However, Mr. Roy says that municipal commissioners may serve a notice on a man to remove a particular nuisance; and if he does not do it, the commissioners themselves shall execute the work. There is no reason whatsoever why the man should not be compelled to remove it and that has been provided for in clause 437. He also wants that the commissioners after executing the work themselves should realise the costs thereof as if it were an arrear of taxes or by other legal process. First

of all there will be difficulty about assessing the cost. Every municipality will have paid scavengers and *mehtars*. For removing a particular nuisance two men may be required to work for about 10 minutes; in another case three or four men may have to work 2 hours 20 minutes. How will the cost be assessed in such cases? Secondly, this amendment will add to the difficulty of the municipal executive. Everybody knows how difficult it is nowadays to realise taxes and rates; Mr. Roy will throw an additional burden on the tax collector, and months may elapse before these costs are realised. The Bill clause provides, on the other hand, that the District Magistrate shall have power to ask the man responsible for the nuisance to remove it at his own cost. The Bill clause is, therefore, better in every respect, and, therefore, I oppose the amendment and I would ask the House to reject it.

The motion of Babu Satyendra Nath Roy was put and lost.

Mr. PRESIDENT: The question is that clause 437 stand part of the Bill.

The motion was put and agreed to.

Clause 438.

Mr. PRESIDENT: The question is that clause 438 stand part of the Bill.

The motion was put and agreed to.

6-30 p.m.

Clause 439.

Mr. PRESIDENT: The question is that clause 439 stand part of the Bill.

The motion was put and agreed to.

Clause 440.

Mr. PRESIDENT: The question is that clause 440 stand part of the Bill.

Rai Bahadur KAMINI KUMAR DAS: Sir, I beg to move that in clause 440, in line 2, after the words "Education Committee" the words "which shall appoint its own chairman and secretary" be inserted.

There is no provision about nominating chairman and secretary and in the absence of any such provision, the chairman of the municipality

will preside. In the education committee there may be a person who is more deserving so far as education is concerned. After the committee is formed, the small group will be in a better position to select the secretary and it is also desirable that the committee so constituted should select their own secretary.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am prepared to accept this amendment.

The motion of Rai Bahadur Kamini Kumar Das was then put and agreed to.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that clause 440 (*a*) be omitted.

Sir, it seems a peculiar thing that the Local Government should appoint an educational officer and also another person for the education committee of a municipality. So long the municipal authorities have carried on their educational schemes with their own officers and with the help of the commissioners and they have carried it on quite well. I do not see any particular reason why the Local Government should introduce an officer of their own choice. Education is a matter which should be left in the hands of the Local Self-Government and in which the Local Government should not interfere. The local conditions are best known to the commissioners of a particular municipality and it should be left to them as to how to constitute their educational committees and how to carry on their educational schemes in their own areas. In a matter like this if the Government want to control and exercise influence not only by appointing an educational officer but also other persons of their own choice, it seems that they have a suspicion as regards the competency of the municipal commissioners. I have not been able to find out under what principle Government want to introduce the system. It is absolutely objectionable and I hope Government will see its way to accept this amendment.

[At 6-40 p.m. the Council was adjourned for prayer and it reassembled at 6-50 p.m.]

Babu SATYENDRA NATH ROY: Sir, clause 440 says that in every municipality there should be a person, either an educational officer or other person appointed by the Local Government. Sir, we do not object to the education committee, as that committee would be formed of municipal commissioners and other residents of the municipality and as amongst the municipal commissioners there would be commissioners nominated by Government, I do not understand why another educational officer should be thrust upon the committee. It is quite unnecessary. I am afraid that some of the activities reported on

the part of the teachers of the schools of the Calcutta Corporation might have given rise to the insertion of this clause which is quite unnecessary and I do not think that the Local Government should again thrust an officer upon the municipal commissioners.

Mr. B. C. CHATTERJEE: Sir, I also join in the protest against the idea embodied in sub-clause (*a*). I am afraid that we are being denied self-government in a great many provisions of this Bill which is much to be regretted. Government think that if they do not have control over most of the activities of the municipalities, they will be in the same position as they are with regard to the Calcutta Corporation. What has happened in regard to Government's relation with the Calcutta Corporation seems to have influenced Government to insert this provision in the Bill. I submit, Sir, with the greatest respect that this provision is most unfortunate in view of the fact that we are going to have provincial autonomy. If we are going to have provincial autonomy, why should there be any distrust on the part of the Government towards the local bodies as disclosed by the provisions of this Bill? If we are to have real provincial autonomy, then why should there be so much distrust of the local bodies on the part of the Government? Why should you not trust the municipalities to work out their own educational problems in their own way? The whole point is that under some anomalous conditions municipalities have hitherto been managed by the Civil Service. Of course, there have been some conflicts between the people and the Civil Service and that fact has hampered the free growth of municipal institutions in this country. The Civil Service have held that disloyalty to its members could not be tolerated, and therefore, they have got section 124A of the Indian Penal Code. The main result of provincial autonomy will be the abolition of this difficulty, namely, the question of disloyalty to the Civil Service. We are going to have the Bengal Provincial Government run by the people, the municipal bodies run by the people, the local and district boards run by the people, and in this concentric scheme of popular bodies I do not understand why Government should be so nervous about leaving educational matters in the hands of the local bodies. I hope, Sir, therefore, that the Hon'ble Minister will frame his legislation in this particular matter not with an eye to the past but with an eye to the future which is going to see Bengal with a network of self-governing institutions beginning with the Central Government at headquarters and ending with village and local bodies in rural areas. So I ask Government to give the municipalities a chance of developing their own educational policy instead of putting them under Government control and Government supervision. We should like the different municipalities to make experiments on their own lines in educational matters instead of all of them having to carry the picture of my friend, Mr. Stapleton, on all

the books that are prescribed for their students. Why should they do that? Why should we have a Government policy, a Government idea, a Government ideal thrust on these poor local bodies? Why not give them a chance? I very strongly appeal to the House, not only to the Hon'ble Minister, but to my Hindu and Muhammadan friends, to see that this sub-clause (*a*) is not carried.

7 p.m.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I do not understand why my friend Mr. B. C. Chatterjee has suddenly become so very nervous about one educational officer being appointed in a committee in which there will be at least five or six other members. For the very reason that he has put forward, namely, that the Government will not be what it is at the present moment, I think he ought not to oppose this idea because the whole idea of the Indian Civil Service and the present official interference with the education affairs of the municipality will disappear with provincial autonomy which we are going to have. The whole idea of the educational officer being a member of the committee, is not with the object of interference or for the purpose of dominating the Education Board but for giving technical advice and advice on educational matters which perhaps many of the commissioners, who will be elected to this board, will not be able to give. Why does not Mr. Chatterjee take it in this light instead of being always haunted by the bogie of interference by the Government nominee? I think this is a very salutary clause in this section, and it should be retained.

Mr. NARENDRA KUMAR BASU: I am sorry I cannot give my support to this amendment. It seems to me that my learned friend Mr. Chatterjee and other speakers who spoke for him have been carried away by the idea that probably by this section it is meant that the Local Government shall appoint an educational officer for the municipality. This clause does not mean anything of that sort. This clause means that of the six or seven men who will form the education committee of the municipality, it is very probable that the other members may not be educationists, and for that purpose what the clause proposes is that one educational expert or somebody else belonging to the Education Department shall be appointed by the Government to give not only technical advice but also to co-ordinate the work of the district so far as education is concerned. I do not think, Sir, that this clause means that this education officer will be thrust upon the municipality by the Government. It only means that one-sixth or one-eighth of the committee shall in every case consist of an education officer to be appointed by the Government.

Mr. SHANTI SHEKHARESWAR RAY: I beg to support the amendment moved by Dr. Ghose. I see no reason why the Local Government should interfere and add a member in a body which has to be constituted for the work of a local body. If there is to be a provision for the appointment of an educational officer or other person to be appointed by the Local Government, then how is the Local Government going to select the man? Naturally it will depend upon the discretion of the district officer, and the man will actually be a nominee of the district officer. In a body constituted by a self-governing body, he will be more or less a spy in such affairs. At least we may put it in another way——

Mr. PRESIDENT: Do not try to improve it. (Laughter.)

Mr. SHANTI SHEKHARESWAR RAY: It is also expected to have a paralysing effect on the actions of that body. He will be a nominee of the Government, and other members of the committee will be the nominees of the local bodies. He will try to dominate the views of the committee by the virtue of the fact that he is a nominee of the Local Government or perhaps, to be more correct, a nominee of the district officer. I have some experience of the local bodies, and I have some experience also of these committees, and I can say that generally the nominees of the district officers are a hindrance to the activities of these bodies.

Dr. NARESH CHANDRA SEN GUPTA: I oppose this amendment. I am afraid hon'ble members who have supported it have not devoted their attention to the whole clause. What this amendment seeks to do is to omit the whole clause, that is to say, ... [A VOICE: Only section (*a*) of the clause]. Oh, yes. The objection to the educational officer also is based upon a misapprehension if I may say so. An education committee ought to have an educationist upon it. A mere committee of the commissioners and three residents of the municipality does not give any guarantee of expert educational knowledge, and the organisation of education in a city requires a certain amount of expert educational knowledge. This officer is going to supply that. Now, Sir, the difficulty which I have felt and which, I am afraid, is due to the wording of the section, is with regard to the meaning of the education officer. It is nowhere said that he is going to be a Government officer. The word "officer" has not been defined in this Bill. It is not said that he is going to be a Government officer. He may very well be an officer of the municipality or the district board, and why should not he be called an education officer? The District Inspector of Schools or the sub-inspector of schools or, for the matter of that, a professor of a local college, say, the Principal of the Ananda

Mohan College in Mymensingh—there is no reason why they should not be called education officers. They are not Government officers. If the Government contemplates that by this clause it will always be a Government officer, then they will be landed in a difficulty, a difficulty which the Select Committee has sought to obviate by the addition of the words "other persons". Now there may be municipalities in which the Government will not be able to find an education officer to sit on the committee. If you take the words "education officer" to imply Government educational officer only, it is possible that for that reason the words "any other person" have been added. But there you depart from the principle. Well, so long as he is an education officer or an educationist, I can well understand it, and I can well understand the necessity of the Government appointing him; but when it is "any other person", I do not see why Government should appoint him. "Any other person" is not qualified in any way——

Mr. H. S. SUHRAWARDY: What about the sweeper?

Dr. NARESH CHANDRA SEN GUPTA: Government will not appoint him. The Local Government may find it inconvenient to appoint him for one reason or another. If you said that "any other person" is also going to be an educationist, I could have understood it. But if that is not so, there is no reason why he should be appointed. That is the subject matter of another amendment, so I shall not refer to it now. But there ought to be an educationist, and the clause, so far as the education officer is concerned, is not so worded as to show the impossibility of any Government education officer being put there.

Mr. H. S. SUHRAWARDY: I cannot really understand why members of this Council are so suspicious of the Local Government, and the suspicion seems to grow as responsibility approaches nearer. As a matter of fact, I would far rather have had the clause worded this way that in every municipality there shall be constituted an education committee consisting of *(a)* a person appointed by the Local Government, leaving the entire discretion to the Local Government to appoint the education officer or any other person whom it thinks fit. Obviously the Local Government will appoint an education officer, if one is available, and there is absolutely no reason why the words "education officer" should be there at all.

Babu KISHORI MOHAN CHAUDHURI: Sir, if any necessity is felt by the commissioners that there should be an expert educationist on the committee, it necessarily follows that the commissioners should have one of their own choice. I cannot understand why is there any necessity for the Government to appoint the education officer. It shows

great distrust of the ability of the municipality to manage their own affairs. Why should we think that we are not even competent to do justice to ourselves, and for the purpose of that there should be clear provisions of law that Government must appoint an expert education officer there, an expert medical man and an expert engineer. Why these things are introduced in the law, I for myself cannot understand. If it is the intention of the present enactment to allow us to stand upon our own legs, then let us manage these things, primary education and so forth, in a way in which we think that the management should be made. It may be that an education officer appointed by Government would be a very good addition, but that is not the thing. Instead of entertaining such ideas in the matter of local self-government, we ought to learn, however defective that might be, to improve our situation and to be able to manage our own affairs in our own way. In this view, I hope the Hon'ble Minister will not be particular about this matter and will not insist upon it, but will agree with us that there is no necessity for making a provision that an education officer should be appointed by the Government.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment, and in doing so, I would appeal to its supporters to give up their distrust of Government. Mr. Chatterjee has made a powerful appeal in support of this amendment, and in doing so, he has said why Government should have this distrust of local bodies. My answer to him is that there is no mistrust at all, but I would remind him that it is high time that he and men of his type who have got to lead public opinion should cease to make a distinction between the Government and the public. The time is fast approaching, I should say it has already come, when the Government and the public are going to be identified.

7-15 p.m.

The educational officer of the Government is not going to be appointed on the education committee of the municipality as a spy, as my friend Mr. Shanti Shekhareswar Ray seems to think, I understand his mentality. But I do not understand how a man of the light and leading like Mr. Chatterjee and men of his type who should realise the true significance of this provision, support him. They should identify themselves with Government and remember that the Government which is going to enforce this Act will not be the Government as it is at present but the government of the future, government of his own country-men and a government elected by him and his supporters.

Mr. B. C. CHATTERJEE: Elected by Mr. Momin.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: What is the clause? It is that an "educational officer or other person appointed by the Local Government". They maintain him in every district, to supervise educational institutions, such as high schools, aided schools and primary schools. He is paid from the public treasury. Is it the intention of men like Mr. Chatterjee that he should be paid and not do his duty? Should the municipality be deprived of the expert advice of the Government educational officer? Is it because he is appointed by the Local Government he should be disqualified from advising the municipality? I think that would be a very unfortunate thing to do. These municipalities cannot always afford to have educational officers of their own. Only big municipalities like the Dacca Municipality or the Darjeeling or Chittagong Municipality may afford to have educational officers of their own, but small municipalities must depend for expert advice on the Government officers. If this amendment is carried, these municipalities will be deprived of that expert advice. So I appeal to Mr. Chatterjee and the mover of this amendment not to misinterpret it but to approach it in a proper spirit. It is not intended to put in a Government spy on the education committee as some of the hon'ble members said.

Mr. B. C. CHATTERJEE: None of us said that.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Mr. Shanti Shekhareswar said that.

Mr. B. C. CHATTERJEE: He said "an intelligence officer."

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It is a mellifluous expression, but that does not change the meaning. There are more than one municipality in a district and it may not be possible for the educational officer to attend the meetings of all the municipalities if held on the same day. With this intention the words "other person" were put in by the Select Committee to obviate the difficulty. So I will request the mover of this amendment not to press it on this ground. There is not the slightest intention, the faintest idea on the part of Government to thrust a nominee of their own. He will not be there as an agent of Government, not as a spy of Government, but he will be there as an independent expert adviser to advise the municipality for co-ordination of the educational methods of the municipalities.

Mr. P. N. GUHA: There has been an educational officer of the Government of Bengal on the primary education committee of the Calcutta Corporation. No one has ever said that any inconvenience has ever been felt for that. The educational officer has been very helpful in educational matters.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 440 (*a*), in line 1, for the words "or other person" the words "if any" be substituted.

If the amendment suggested by me is made, the clause will read like this: "an educational officer, if any, appointed by the Local Government." It will not make it compulsory for the Government to appoint an educational officer for every municipality, because the Government cannot appoint an educational officer for every municipality. Where an educational officer is not available, the clause, as it stands, suggests the appointment of other persons. There is no necessity for that person. There is necessity, as I said when speaking on the last motion, for the appointment of an educational officer where one is available, but there is no necessity for the appointment of any other person who would not be an expert. If the principle is that the Local Government must have a representative there, then I frankly say I do not understand that. The Local Government have no interest except such interest as can be exercised by the educational officer—purely educational interest. Unless the Government can provide an educational officer for a municipality, there is no occasion or necessity for appointing any other person.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment too. As I said in opposing the previous amendment, it would not be possible for the educational officer of the Government to be present at the meetings of different municipalities in the district if held on the same day. The words "other person" were inserted by the Select Committee with the idea that it would give Government the facility to appoint other persons with actual educational experience, for instance, a retired Inspector of Schools who may live in a particular municipality, and there is nothing to prevent the Local Government from utilising his services as he would be included in the words "other person." With this intention the words "other person" were inserted by the Select Committee after very careful consideration and I hope the members of the Select Committee would stick to what they have done.

Mr. NARENDRA KUMAR BASU: I rise to support the amendment. From the very halting manner in which the Hon'ble Minister has been (if I may use the expression) rehashing his speech on the last

amendment it seems that he is not convinced of the utility of these words being there. He now appeals to the members of the Select Committee to support the opposition to the amendment. He was forestalling me from getting up to support it. These words were added in the Select Committee when I was not present, but that is neither here nor there. The only justification for having a nominee of Government is, as the Hon'ble Minister has said on a previous amendment, to have an expert adviser, a man who will co-ordinate the policy of different municipalities in educational matters. Government may not certainly nominate any Tom, Dick and Harry to add to the dignity of the committee in any way. If there is a retired educational officer in the municipality under clause (*c*), the municipality may make him a member. If that retired officer is a resident of the municipality, there is nothing to prevent the commissioners from appointing such a person as a member of the committee. I, therefore, support the amendment as well.

Mr. H. S. SUHRAWARDY: I do not see any reason why Mr. Narendra Kumar Basu should consider that Government are going to appoint a Tom, Dick and Harry. Why should they not appoint Mr. Narendra Kumar Basu, Mr. Shanti Shekhareswar Ray or Dr. Naresh Chandra Sen Gupta?

Khan Bahadur Maulvi AZIZUL HAQUE: I am one of those who in the absence of Mr. Narendra Kumar Basu was responsible for the framing of the clause. I thought good sense prevailed only because Mr. Basu was absent. I think the reason why the Select Committee put in these words is rather misunderstood by my friend Mr. Basu. The point is that unfortunately there are occasions and these occasions are not very few, when the commissioners of a municipality are divided amongst themselves and it is necessary that at least in educational matters there should be somebody to take non-party attitude in such cases. It is really for that purpose that it is very necessary in the interest of education. It may not be possible for the educational officer to be appointed as a member, because it involves the cost of travelling. Therefore, there is every reason for Government to keep to the same principle by which Mr. Narendra Kumar Basu has supported nomination in the constitution of a municipality. My friend, Mr. Narendra Kumar Basu, who voted for nomination, should not oppose the provision in the clause. He is perfectly all right when he thinks that in a municipality nomination is necessary and from that point of view there ought to be one man appointed by Government on the education committee of the municipality. I think Mr. Narendra Kumar Basu will now consider it to be a necessary provision.

Mr. B. C. CHATTERJEE spoke in support of the amendment. He was imperfectly heard at the Reporters' table. In the course of his speech he stated that the officer to be appointed to the committee would be nothing more than an intelligence officer for the Education Minister and then for Mr. N. K. Basu or Maulvi Abul Kasem who may succeed the Hon'ble Minister later on. He asked that in any case in order to keep the luxury Dr. Sen Gupta's amendment should be accepted by Government and carried by the Council.

Mr. SHANTI SHEKHARESWAR RAY: I shall just put in one word in support of the amendment. The Hon'ble Minister told us that the nominee of the Government is not expected to be a spy of the Government——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I said it is going to be an autonomous provincial government.

Mr. SHANTI SHEKHARESWAR RAY: That is an announcement very well made. But what has been his action in the past? What has been his action in connection with the Calcutta Corporation the other day?

Mr. PRESIDENT: Although he promised to put in one word, he has uttered at least a score! (Laughter.)

Mr. SHANTI SHEKHARESWAR RAY: He has bestowed so much pity on me that I was going to show him up for a moment. In the education committee of the Corporation there is no Government nominee——

Adjournment.

The Council was then adjourned till 2-30 p.m., on Wednesday, the 31st August, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 31st August, 1932, at 2-30 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 105 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Custody fees in certificate cases in Chittagong

***185. Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether there was a long-standing practice in Chittagong of issuing service cards to the defaulters demanding Government dues, when the demand under Public Demands Recovery Act was less than a rupee?

(*b*) Why is that practice not being followed now?

(*c*) How many certificates and how many cards were issued in Chittagong last year?

(*d*) With reference to the then Hon'ble Member's speech on the 14th March last, printed on page 65 of the Bengal Legislative Council Proceedings, Vol. XXXVIII, No. 3, are the Government considering the desirability of drawing the attention of the officers concerned to the rules therein mentioned?

(*e*) Are the Government considering the desirability of reverting to the former practice for the realisation of Government fees under the Public Demands Recovery Act?

(*f*) Are the Government aware that an item known as custody fees, *i.e.*, "Mal Pahara," is included in the certificate demand in Chittagong even where no such amount is spent?

(*g*) Will the Hon'ble Member be pleased to lay on the table a statement showing the custody fees demanded, realised and spent with the respective number of the case during the last two years?

(*h*) What is the present amount in deposit as "Mal Pahara" in respect of the custody fees in certificate cases?

(*i*) Are the Government considering the desirability of exempting certificate debtors in future from the payment of custody fees at the time of realisation of dues when no such amount is spent?

SECRETARY to GOVERNMENT, REVENUE DEPARTMENT (Mr. H. C. V. Philpot): (*a*) No. The practice was and is to issue postcard warnings before filing a certificate in the case of new demands or demands varying from year to year. A copy of the rules is laid on the table.

(*b*) Does not arise.

(*c*) Complete figures are not available, but it has been ascertained that 150 warning postcards were issued in cess cases of which there were 3,143 in 1931-32.

(*d*) As at present advised, no, since the rules are being followed.

(*e*) Does not arise.

(*f*) A uniform fee of Re. 1-4 is levied under rule 38, Schedule II of the Public Demands Recovery Act. This includes 8 annas for the seizure and 4 annas per day for the cost of the officer who proceeds to the village to make the attachment.

(*g*) It is reported that warrants of attachment were issued in about 6,500 cases in each of the last two years and Re. 1-4 was credited in stamps in each case. The corresponding expenses are included in the cost of the process-serving establishment. Hence separate accounts of the receipts and expenditure are not available.

(*h*) There is no amount in deposit.

(*i*) No custody fees are charged when private persons remain in charge of the attached property.

Copy of the rules referred to in clause (a) of starred question No. 185.

BOARD'S INSTRUCTIONS UNDER THE PUBLIC DEMANDS RECOVERY ACT.

9. (*a*) A postcard warning shall always be issued to the debtor previous to the issue of a certificate under the Act, in the case of demands made for the first time (whether they be of a recurring

character or not), such as fines imposed by Revenue Officers, process-fees, *takavi* advances and arrears not covered by the proceeds of forced sales, the demand not being based on a written document signed by the debtor or on a document of which he has a copy in his possession.

(*b*) Postcard notices shall also be issued to defaulters in all cases of demands which vary from year to year, and with regard to which it may reasonably be supposed that the debtor does not know the exact amount of his liability. No such notices need be issued for demands on account of income-tax, excise, ferries and pounds.

(*c*) In the case of recurring demands of a fixed character, warning cards shall be issued to defaulters once only, it being stated in the card that no more postcard notices will be issued for sums which may fall due in future on account of that demand, provided that in cases in which verbal warnings are given to the defaulters. Requisitioning officers should dispense with postcard warnings, but should record on the body of the requisition a written note to the effect that the debtor had been personally warned.

(*d*) Where assessments are made for a term of years, as in the cases of the road and public works cesses and embankment cess, post-card notices shall be issued to defaulters for the first year of the term, it being stated in each card that the cess is fixed for so many years or until further notice, and that no such premonitory notices will be issued for the remaining years of the term. Defaulters during the second or subsequent years of the term, who paid dues for the first year, may be supposed to know the amount of the demand and the term for which it is fixed and no premonitory postcards are required in their case.

Cultivation of sugarcane and potato in Bankura.

***188. Babu SATYA KINKAR SAHANA:** (*a*) Is the Hon'ble Minister in charge of the Agriculture and Industries Department aware that experience has shown that the soil and climatic condition of Bankura are favourable for the cultivation of sugarcane and potatoes during the rains?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state why the potato crop during the rains is not experimented upon in the Bankura District Agricultural Farm?

(*c*) Are the Government considering the desirability of starting sugar factories in the district of Bankura or encouraging and helping the starting of such factories by private individuals?

(*d*) Will the Hon'ble Minister be pleased to state whether the Government are considering the advisability of issuing instructions to the department to try the growing of potatoes during the rains in the Bankura District Agricultural Farm?

MINISTER in charge of AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): (*a*) Experience has shown that certain areas in the Bankura district are suitable for the cultivation of sugarcane; but the cultivation of potatoes in the rains in the district is not a practical proposition.

(*b*) The question does not arise.

(*c*) The advice of the officers of the Agricultural Department is available to private individuals contemplating the establishment of sugar factories.

(*d*) No, as Government are advised by their experts that this is not a practical proposition.

Babu SATYA KINKAR SAHANA: Will the Hon'ble Minister be pleased to state which of the agricultural officers placed in Bankura should be approached for expert advice on the establishment of sugar factories?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: If the hon'ble member wants to know the name of the expert officer, I should ask for notice. He can get the name of the officer from the Director of Agriculture.

Babu SATYA KINKAR SAHANA: With reference to answer (*d*) that Government are advised by their experts that potato cultivation during the rains is not a practical proposition, may I know what is the basis of this advice?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: It is based on practical experiments.

Babu SATYA KINKAR SAHANA: Is it known to the Hon'ble Minister that private individuals are already cultivating potatoes during the rains in Bankura?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I have no such information.

Steamer communication to Tangail.

*187. **Maulvi NUR RAHMAN KHAN EUSUFJI:** Will the Hon'ble Member in charge of the Irrigation Department be pleased to state what steps, if any, have been taken by Government to improve the steamer communication between Sirajganj and Tangail?

SECRETARY to GOVERNMENT, IRRIGATION DEPARTMENT (Mr. H. C. V. Philpot): Government spent Rs. 14,238 in 1931-32 on improving the Loharjung river to restore easy communication between Baraitoli and Tangail and spent Rs. 17,500 every year through the joint steamer companies to keep the Dhalleswari and the Buriganga open to navigation. Negotiations have been started with the same company to improve the Baraitoli Channel known as Charabari route.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to state whether any inquiry was made as to how the joint steamer companies spent Rs. 17,500 to keep the two rivers open to navigation?

Mr. H. C. V. PHILPOT: We get reports from the local officers.

Maulvi SYED MAJID BAKSH: Can the Secretary be pleased to give an idea as to what the report says about the steps taken for improving the route?

Mr. H. C. V. PHILPOT: I cannot remember the details. I want notice.

Primary education for girls.

*188. **Babu SATYENDRA NATH ROY:** Will the Hon'ble Minister in charge of the Education Department be pleased to state what steps, if any, have been taken by Government for improving free primary education amongst the girls of urban areas in Bengal during 1931-32?

SECRETARY to GOVERNMENT, EDUCATION DEPARTMENT (Mr. H. R. Wilkinson): The responsibility for primary education rests primarily with the municipalities themselves. Financial conditions would, however, in any case have prevented Government from giving much material assistance to any such scheme.

A Bill to enable municipalities to make primary education for girls compulsory was passed by the Council during the period in question.

Mr. SYAMAPROSAD MOOKERJEE: Will the Secretary be pleased to state what assistance has been given? In the reply it is said that much material assistance has been given. What is the nature of the assistance?

Mr. H. R. WILKINSON: I said financial conditions would have prevented Government from giving material assistance.

Contested suits disposed of in the Munsifs' courts at Faridpur.

*189. **Rai Sahib AKSHOY KUMAR SEN:** Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a statement showing the number of contested suits disposed of in the different munsifs' courts in the district of Faridpur during the years 1929-31?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): A statement is laid down on the table.

Statement referred to in starred question No. 189.

Name of Courts.	Contested suits disposed of during—		
	1929.	1930.	1931.
Sadar Munsif	159	229	208
Additional Sadar Munsif	88	91	27
2nd Additional Sadar Munsif	..	..	183
Munsif, 1st Court, Goalundo	215	170	179
Munsif, 2nd Court, Goalundo	102	152	209
Munsif, 1st Court, Madaripur	193	198	187
Munsif, 2nd Court, Madaripur	198	142	172
Munsif, 3rd Court, Madaripur	147	215	190
Munsif, 1st Court, Bhanga	377	295	253
Munsif, 2nd Court, Bhanga	301	243	368
Munsif, 1st Court, Chikandi	186	251	199
Munsif, 2nd Court, Chikandi	33*	210	224
Munsif, 1st Court, Gopalganj	227	174	268
Munsif, 2nd Court, Gopalganj	280	223	164
Munsif, Additional Court, Gopalganj	81	37	178
Munsif, 2nd Additional Court, Gopalganj ..	..	119	..
Total ..	2,587	2,749	3,009

*Worked on deputation to Sadar.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member kindly explain how in 1931 the second munsif at Bhanga disposed of 368 cases during the year including vacations?

The Hon'ble Mr. R. N. REID: I am not in a position to explain that.

Maulvi SYED MAJID BAKSH: Does the Hon'ble Member think that proper attention was given to the disposal of cases when such a large number of cases were finished in hot haste?

The Hon'ble Mr. R. N. REID: I think so.

Kotkabala deeds in Bakarganj.

*190. **Maulvi MUHAMMAD HOSSAIN:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing—

(*i*) the number of *kotkabala* deeds registered in the year 1931-32 in the district of Bakarganj; and

(*ii*) the stipulated period for which those deeds have been created?

(*b*) Is the Hon'ble Member aware—

(*i*) that *kotkabala* deeds for more than 15 years are being registered in the district of Bakarganj; and

(*ii*) that such registrations practically defeat the operation of sections 26D and 26G of the Bengal Tenancy Act, 1885 (VIII of 1885)?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) and (*ii*) The information is not readily available.

(*b*) (*i*) Yes.

(*ii*) A *kotkabala* is a mortgage by conditional sale which was excluded from the operation of section 26D by section 26I (2) (*iv*).

A mortgage by conditional sale is a transaction different in nature from a usufructuary mortgage and does not come under the purview of section 26G.

Such registrations do not defeat the provisions of sections 26D and 26G of the Bengal Tenancy Act, 1885.

Roping and handcuffing prisoners.

*191. **Babu SUK LAL NAG:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state specifically the legislative enactment under the authority of which the rules in the Bengal Police Code have been made?

(*b*) What are the rules regarding the use of handcuffs to undertrials and convicted prisoners both from court to jail, and from one jail to another jail?

(*c*) Under what circumstances is a prisoner liable to be kept with handcuffs on during the night time?

(*d*) Is the Hon'ble Member aware that the civil disobedience undertrial prisoner Sj. Nagendra Nath Sen, B.L., President of the Khulna Bar Association and a late member of this Council, was marched off on foot from the Khulna Jail to the Criminal Court on January 25th, 1932, with both his hands cuffed with iron and that he and some other prisoners were surrounded by a rope round their waists?

(*e*) In what division was Mr. Nagendra Nath Sen placed as an undertrial and as a convict?

(*f*) Is it a fact that some Divisions I and II prisoners were handcuffed during their transfer from the Khulna Jail to the Dum Dum and Alipore Jails?

(*g*) Is it a fact that the Division II civil disobedience prisoner Mr. Jnanendra Ghosh was kept in iron during the whole night when transferred from the Khulna Jail to the Dum Dum Special Jail?

(*h*) Is it a fact that the Division I civil disobedience prisoner Mr. Kshetra Nath Mitra, B.L., Pleader, Bagerhat, was taken from the Khulna Jail to the railway station with a rope round his waist?

(*i*) Will the Hon'ble Member be pleased to state whether there have been any changes in the rules regarding the use of handcuffs and ropes for undertrials and convicted prisoners after the inauguration of the civil disobedience movement in 1930?

(*j*) If the answer to (*i*) is in the negative, are the Government considering the desirability of making an inquiry into these matters referred to in (*d*) to (*h*)?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) Some of the rules in the Police Regulations, Bengal (to which the member presumably refers), are made under the authority of section 12, Act No. V of 1861; others are rules issued under executive authority.

(*b*) The member is referred to rules 313, 392 and 700, Police Regulations, Bengal, Volume I.

(*c*) There are no specific rules for the use of handcuffs during the night time.

(*d*) Yes; because it was apprehended that an attempt might be made to rescue the prisoner by a crowd which had collected near the jail.

(*e*) Division I, both as an undertrial prisoner and convict.

(*f*) Yes.

(*g*) No.

(*h*) Yes; to avoid the prisoner becoming separated from his escort owing to the crowd.

(*i*) Certain changes have been made.

(*j*) Does not arise.

Babu JITENDRALAL BANNERJEE: With reference to answer (*d*), will the Hon'ble Member be pleased to state whether there was any real apprehension that the prisoner himself would make an attempt to escape?

The Hon'ble Mr. R. N. REID: My information is that it was apprehended that an attempt might be made to rescue him.

Babu JITENDRALAL BANNERJEE: In any circumstances, how would handcuffing a prisoner prevent him from being rescued by other people?

The Hon'ble Mr. R. N. REID: It would make it difficult for him to assist persons who want to rescue him.

Babu JITENDRALAL BANNERJEE: This brings me to my previous question. Was there any apprehension that the prisoner himself would assist other people in rescuing him?

The Hon'ble Mr. R. N. REID: I have no information on the point.

Mr. S. M. BOSE: With reference to answer (*i*) will the Hon'ble Member be pleased to state exactly what changes in the rule regarding the use of handcuffs have been made now?

The Hon'ble Mr. R. N. REID: Several changes have been made. I cannot give all details now; but if the hon'ble member wants to have full details, I can give them at some other time.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be able to contradict the statement with regard to answer (*d*) that Babu Nagendra Nath Sen was handcuffed and marched off on foot with a rope tied round his waist simply to humiliate him?

The Hon'ble Mr. R. N. REID: I have no information to that effect.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether the action was taken as an additional punishment?

The Hon'ble Mr. R. N. REID: It was not taken as a punishment at all.

Dr. AMULYA RATAN GHOSE: Was it not possible for the police to take the prisoner in a motor-car or a prison van instead of marching him off on foot?

The Hon'ble Mr. R. N. REID: It might have been possible, but it was quite unnecessary because the distance was very short.

Mr. SHANTI SHEKHARESWAR RAY: May I know who decided that the prisoner should be taken in that way with handcuffs on?

The Hon'ble Mr. R. N. REID: Presumably the jail officials.

Mr. SYAMAPROSAD MOOKERJEE: At what stage exactly he was handcuffed and the rope put round his waist?

The Hon'ble Mr. R. N. REID: I am afraid I cannot answer that question.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state how the police authorities came to know when the prisoner was taken out of the jail that the crowd outside would prevent him from proceeding to the court?

The Hon'ble Mr. R. N. REID: Presumably they observed the attitude of the crowd.

Mr. B. C. CHATTERJEE: Does the Hon'ble Member agree that the treatment meted out to the gentleman was humiliating?

The Hon'ble Mr. R. N. REID: I do not agree at all.

Mr. SHANTI SHEKHARESWAR RAY: Was any attempt actually made to rescue the prisoner?

The Hon'ble Mr. R. N. REID: I have no information on the point.

Dr. AMULYA RATAN GHOSE: What is the distance between the criminal court and the jail?

The Hon'ble Mr. R. N. REID: I want notice.

Alleged maltreatment of prisoners in the Additional Special Jail at Hijli.

*192. **Babu SUK LAL NAG:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact that during the visit of the Inspector-General of Prisons to the Additional Special Jail at Hijli when he was closeted with Srijuta Suresh Chandra Dev, M.A., Natendra Nath Das, B.L., Nagendra Nath Ghosh, B.A., and H. P. Modi, B.A., and hearing complaints against the authorities of the said jail, the then Superintendent of the jail, Mr. B. E. J. Burge, I.C.S., kicked Srijut Suresh Chandra Dev, M.A., saying that they (*i.e.*, the prisoners) were taking and wasting much of the time of the Inspector-General?

(*b*) Have the Government made any inquiry into the matter? If so, with what result?

(*c*) Is it a fact that all the jail population (nearly 1,400 prisoners) were kept on penal diet for four consecutive days?

(*d*) If so, will the Hon'ble Member be pleased to state the reasons therefor?

(*e*) Do the Government approve of the penalising of the whole jail population in this manner?

(*f*) If the answer to (*e*) is in the negative, will the Hon'ble Member be pleased to state whether the Government have taken any action in the matter?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) No. After the Inspector-General of Prisons had inspected the jail, some representatives of the prisoners came to the office to lodge complaints of a minor nature regarding certain discomforts felt by the prisoners. No prisoner was kicked by any jail official.

(*b*) Does not arise.

(*c*) and (*d*) Yes, for refusing to work and to wear jail caps.

(*e*) Yes.

(*f*) No.

2-45 p.m.

Mr. SYAMAPROSAD MOOKERJEE: With reference to answer (*a*), will the Hon'ble Member be pleased to state if the prisoner concerned was dealt with in any other way by any jail official?

The Hon'ble Sir PROVASH CHUNDER MITTER: I do not know, Sir, what "any other way" means.

Mr. SYAMAPROSAD MOOKERJEE: That is, was he assaulted?

The Hon'ble Sir PROVASH CHUNDER MITTER: No, he was not assulted. My reply to that effect is already there.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state, with reference to answers (*c*) and (*d*), how many prisoners out of the 1,400 refused to work and to wear jail caps?

The Hon'ble Sir PROVASH CHUNDER MITTER: A considerable number, practically all.

Recruitment of assistant and sub-assistant surgeons from [illegible] classes.

*188. **Babu LALIT KUMAR BAL:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement showing since 1921—

(i) how many assistant surgeons and sub-assistant surgeons have been appointed; and

(ii) how many of them belong to the depressed classes?

(b) Is there any possibility of recruitment of sub-assistant surgeons this year?

(c) If the answer to (b) is in the affirmative, what steps do the authorities intend taking to preserve the interests of the depressed classes in the matter of such recruitment?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (a) (i) A statement is laid on the table.

(ii) Two assistant surgeons and 4 sub-assistant surgeons.

(b) It is not possible to say anything definitely yet.

(c) The interests of depressed classes are always given due consideration when these appointments are made.

Statement referred to in clause (a) (i) of starred question No. 198.

Number of assistant surgeons appointed.	Year.	Number of sub-assistant surgeons appointed.
24	1921	18
8 (including 2 sub-assistant surgeons promoted to the rank of assistant surgeons).	1922	7
Nil	1923	Nil.
Nil	1924	Nil.
1 (one sub-assistant surgeon promoted)	1925	11
8	1926	1
10	1927	Nil.
6	1928	Nil.
7	1929	3
8 permanent (including two sub-assistant surgeons promoted).	1930	12 (permanent).
2 temporary	....	2 (temporary).
3 permanent (including one sub-assistant surgeon promoted).	1931	6 (permanent).
1 temporary	....	5 (temporary).
1 permanent	1932	Nil.
2 temporary	....	11 (temporary).

Babu AMULYADHAN RAY: Will the Hon'ble Minister be pleased to state whether the two assistant surgeons and four sub-assistant surgeons come under the classification of depressed class as adopted in the census of 1921?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Presumably they do.

Babu AMULYADHAN RAY: Will the Hon'ble Minister be pleased to state whether at least some of the two assistant surgeons and four sub-assistant surgeons belong to the Buddhist community?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: So far as I know, they do not.

Babu AMULYADHAN RAY: Will the Hon'ble Minister be pleased to state whether the Buddhists come under the classification of depressed class as adopted by the Government of Bengal?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, I think so.

Mr. SYAMAPROSAD MOOKERJEE: Is any one not getting such an appointment entitled to feel depressed?

Babu AMULYADHAN RAY: Will the Hon'ble Minister be pleased to state whether very often candidates who allege to be coming from the depressed class but do not actually belong to it are appointed to such posts?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: No.

Tuberculosis Association, Bengal.

***194. Mr. E. T. McCLUSKIE:** (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware—

(*i*) what work the Tuberculosis Association of Bengal is doing to help and to relieve the patients suffering from tuberculosis; and

(*ii*) how many are being helped at present?

(*b*) Is any grant being given to the T. B. Hospital at Jadabpur?

(*c*) If the answer to (*b*) is in the negative, will the Hon'ble Minister be pleased to state the reason therefor?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) (*i*) Government have no information beyond that contained in the annual reports. Copies of these, reviewing the work of the Association up to end of 1931, are laid on the Library table.

(*ii*) Government have no information.

(*b*) No.

(*c*) The provincial finances do not allow such a grant to be made.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to tell us whether any grants to hospitals are allotted under the Medical budget?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, Sir.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to state whether out of these grants, the Hon'ble Minister does make grants to such an important hospital as the Chittaranjan Hospital at Jadabpur?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The answer is there.

Mr. S. M. BOSE: Will the Hon'ble Minister be pleased to state if Government have received a long memorial from the Tuberculosis Association of Bengal detailing the excellent work done by them and asking for help?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I ask for notice.

Mr. S. M. BOSE: Is it a fact that the Association has stated that it has got to pay immediately a debt amounting to over Rs. 5,00,000?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I ask for notice.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it not a fact that there is only one institution in Bengal to treat tubercular patients and that is the Tuberculosis Association of Bengal?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Very likely.

Khan Bahadur Maulvi AZIZUL HAQUE: In view of this, am I to understand that the Department of Public Health as well as Medical do not keep any information about the work that it is doing?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government know of their activities only from what is contained in the annual reports.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Minister be pleased to state if any medical officer of Government ever visited the hospital or the premises of the Tuberculosis Association of Bengal?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I want notice.

Détenus in the Berhampore Detention Camp.

*195. **Mr. SHANTI SHEKHARESWAR RAY:** Will the Hon'ble Member in charge of the Political Department be pleased to state whether the détenus in the Berhampore Detention Camp have been deprived of the services of attendants? If so, why?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): During part of April and May last some détenus were deprived of the services of the ward servants as a disciplinary measure.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if the détenus were asked to clean latrines and remove nightsoil?

The Hon'ble Mr. R. N. REID: No, Sir.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state under what Act the détenus were deprived of the services of the ward servants?

The Hon'ble Mr. R. N. REID: Under no particular Act.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Police forces.

91. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Will the Hon'ble Member in charge of the Police Department be pleased to state—

(i) to what extent—

(*1*) the European Police Forces,

(*2*) the Indian Police Forces,

have been increased for the recent political situation in the province; and

(ii) the additional expenditure involved in the said increase?

The Hon'ble Mr. R. N. REID: (*i*) A statement is laid on the table showing differences in strength between 1929 and 1932.

(*ii*) No separate accounts of expenditure attributable to the political situation are kept, but the following are approximate estimates in round figures of such additional expenditure incurred in 1930-31 and 1931-32 and estimated for 1932-33:—

	1930-31.	1931-32.	1932-33.
	Rs.	Rs.	Rs.
Bengal Police ..	12,60,500	13,69,000	14,94,000
Calcutta Police ..	2,01,000	1,70,000	2,77,000

Statement referred to in clause (i) of unstarred question No. 91.

	Gazetted rank down to Deputy Superintendent or Assistant Commissioner.				Rank from Inspector to Constable.			
	Permanent.		Temporary.		Permanent.		Temporary.	
	1929.	1932.	1929.	1932.	1929.	1932.	1929.	1932.
Bengal Police.								
European ..	80	72	2	4	80	75	2	10
Indian ..	42	48	6	12	24,426	24,381	788	2,208
Vacant ..	10	8	..	..	..	..	..	..
Calcutta Police.								
European ..	9	9	..	..	142	152	1	35
Indian ..	9	9	..	2	5,602	5,497	17	196

University of Dacca.

92. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that of late the University of Dacca has evidenced a marked decline in the matter of admission of students?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state whether he has ascertained the causes therefor?

(*c*) Will the Hon'ble Minister be pleased to state whether in view of the abnormal financial stringency the Government propose to legislate to reduce the annual grant to the University of Dacca?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) Yes.

(*b*) The main reasons for the decrease are said to be the acute economic distress in Eastern Bengal, the serious communal riots which took place in May and June, 1930, and the political unrest generally.

(*c*) There is no such proposal before Government at present.

Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Minister be pleased to state, with reference to answer (*a*), whether there has been a general cut of 10 per cent. on the pay of the teaching staff? If not, why not?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The Dacca University works under the Dacca University Act. We cannot enforce any cut on them.

Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Minister be pleased to state whether there is any proposal for reducing the number of the teaching staff in view of a fall in the number of students?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: It is the business of the University to consider such a proposal, not Government's.

Mr. SYAMAPROSAD MOOKERJEE: In view of the financial difficulties of the Dacca University, does Government propose to give the University additional help?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: There is a letter now pending before Government, in which they have asked for help.

Mr. SYAMAPROSAD MOOKERJEE: Is it not a fact that Government received a deputation from representatives of the Dacca University on the subject of their financial position?

The Hon'ble Mr. KHWAJA NAZIMUODIN: Yes, His Excellency the Governor in his capacity as Chancellor of the University received such a deputation.

GOVERNMENT BILL.

The Bengal Municipal Bill, 1932.

[The discussion on the Bengal Municipal Bill, 1932, was then resumed.]

Clause 140.

Mr. SHANTI SHEKHARESWAR RAY: Sir, as I mentioned yesterday, the attitude of the Hon'ble Minister can be easily understood in the light of his action in connection with the activities of the Education Committee of the Calcutta Corporation. Though there is no nominee of the Local Government on that body, it has been doing splendid work in the sphere of education in this city. But the Hon'ble Minister has no word of approbation for such work.

Mr. PRESIDENT: Order, order: I asked you not to refer to this point last night. Please skip over this portion of your speech.

Mr. SHANTI SHEKHARESWAR RAY: I am referring to this with a view to show the attitude of the Local Government to the Education Committee of the Calcutta Corporation.

Mr. PRESIDENT: I think the attitude of the Hon'ble Minister in regard to the Corporation has nothing to do with the matter before the House.

Mr. SHANTI SHEKHARESWAR RAY: I am not referring to the Corporation at all, but to its Education Committee. Sir, you have allowed comparisons between the Calcutta Municipal Act and the Bengal Municipal Act and I am dealing with that subject from that point of view alone, and I will justify my position.

Mr. PRESIDENT: Last night, if I remember aright, you tried to criticise the conduct of the Hon'ble Minister with reference to the action that he took in connection with the Calcutta Corporation; that is not permissible. But, on the other hand, if you try to draw an analogy between the Education Department of the Corporation and the matter we are discussing now, I might allow you to do so.

Mr. SHANTI SHEKHARESWAR RAY: My main point is that whether nomination is due to distrust of the Hon'ble Minister for such work or not, his thirst for information has led to this change of policy.

Mr. PRESIDENT: We have nothing to do with that.

Mr. SHANTI SHEKHARESWAR RAY: The Hon'ble Minister waxed eloquent about his trust in local bodies. But does he know, Sir, that his attitude towards the Calcutta Corporation Education Committee disclosed nothing but distrust?

Mr. PRESIDENT: Order, order: you should not again refer to the Hon'ble Minister's conduct in regard to the Calcutta Corporation.

Mr. SHANTI SHEKHARESWAR RAY: The Hon'ble Minister in the absence of his nominee.....Is it your decision, Sir, not to allow me to refer to the Education Committee of the Calcutta Corporation?

Mr. PRESIDENT: You must first tell me what is at the back of your mind.

Mr. SHANTI SHEKHARESWAR RAY: The Hon'ble Minister in the absence of his nominee in the Education Committee wanted the Corporation to do a dirty job and I am glad that the Calcutta Corporation has declined to do that.

Mr. PRESIDENT: I cannot allow you to cast aspersions on the Hon'ble Minister with reference to a matter which is not before the House.

Mr. SHANTI SHEKHARESWAR RAY: No, Sir, I am leaving aside, the personal aspect of the question. Whatever I am saying now I am saying in the public interest. It is my intention to emphasise that the fact of having a Government nominee on the Education Committee has been brought forward from a policy of mistrust. I am going to point out that when the Minister recently dealt with the Calcutta Corporation Education Committee, he found that there was a Government nominee on that body.

Mr. PRESIDENT: Order, order: you will serve the public interest much better, if you will criticise the action of the Hon'hle Minister with regard to the Bill that we are now discussing.

Mr. SHANTI SHEKHARESWAR RAY: I shall make another effort to convince you that his action in connection with the Education Committee has a great bearing on the subject. Sir, why does the Hon'ble Minister want a Government nominee on the Education Committee? Sir, if I oppose his proposal, the Hon'ble Minister ascribes my opposition to a queer mentality. He wants to kill me with his pity. Sir, he is welcome to hurl insults at members of this House from

his position in the Treasury Bench, but I might tell him that his performances can and do evoke only feelings of disgust among his countrymen. He has brought forward this proposal of a Government nominee in the Bill to fill up a lacuna in the existing Municipal Act. I hope the seven battalions of troops that are coming to Bengal will soon be another cause for bringing up another amending Bill to remove the lacuna in the Calcutta Municipal Act, as he evidently attempts to do now in connection with the municipalities in Bengal.

Mr. PRESIDENT: Order, order, I must stop you from proceeding any further on these lines.

Mr. SHANTI SHEKHARESWAR RAY: So far as this mentality is concerned, I shall leave him alone.

As regards the criticisms of the Khan Bahadur that as the House has accepted the policy of Government nomination to local bodies, there can be no objection in this case too; may I point out that when a suggestion was made by Dr. Amulya Ratan Ghose to include one of the nominated members in the Assessment Appeal Committee, the position taken up by the Hon'ble Minister was that the discretion of the local bodies should not be fettered in any way. May I ask: why this anxiety on his part to pitchfork a Government nominee on the Education Committee? Under this section the municipal commissioners will elect two to four members to the Education Committee from among themselves and three other persons who are not members of the municipal board. Naturally the members of the board will elect men who take interest in such matters; and I see no reason why they will not consider the claims of retired Inspectors of Schools—I believe they are Inspectors of Schools and not inspectors of police whom the Hon'ble Minister intends to appoint. I submit that if other committees of the municipal board can get along without a Government nominee, the Education Committee also can do its work without such doubtful help.

3 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I, at this stage, for the satisfaction of those members who are opposed to the words "other persons," move an amendment to substitute the words "other persons interested in education"? The amendment will run thus—

"That in clause 440(*a*), line 1, after the words 'or other persons' the words 'interested in education' be inserted."

I hope my friends will accept this amendment.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy, was then put and agreed to.

The following motion of Dr. Naresh Chandra Sen Gupta, therefore, failed:—

"That in clause 440 (*a*), in line 1, for the words 'or other person' the words 'if any' be substituted."

Rai Bahadur KAMINI KUMAR DAS: Sir, may I have your permission to move a short-notice amendment——

Mr. PRESIDENT: Rai Bahadur, are you not moving the amendment that stands against your name? Have you given any notice at all of the amendment you now propose to move?

Rai Bahadur KAMINI KUMAR DAS: Sir, I spoke to the Hon'ble Minister about my short-notice amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I could not exactly understand what the Rai Bahadur wants although he tried to explain.

Rai Bahadur KAMINI KUMAR DAS: Sir, if these words "not more than" be omitted——

Mr. PRESIDENT: I have allowed members and also the Hon'ble Minister to move amendments at short notice, or even without notice, for the simple reason that, I am very anxious that this Bill should be as far as possible faultless; but when an amendment is not backed by any important party, or by the Hon'ble Minister, I think it would not be fair on my part to allow it without any notice whatsoever.

Rai Bahadur KAMINI KUMAR DAS: Then I do not move the amendment, Sir.

Rai Bahadur KAMINI KUMAR DAS: I beg to move that in clause 440 (*c*), in line 1, the words "not more than" be omitted.

Sir, my reason of moving this amendment is to have an equal number because in clause (*a*) we have an educational officer and in clause (*b*) we have more than two and not less than four and in clause (*c*) we have not more than three residents of the municipality; so, altogether there would be eight members, four of whom would be municipal commissioners and the other four will be persons other than municipal commissioners. So I propose that the words "not more than" be omitted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am sorry I must oppose this amendment. I would just remind the mover that this is an expert committee and the experts will be there for the purpose of advising and not merely for the purpose of voting; voting is not an important point here. Even if the commissioners are in a minority, it does not matter. Government feels that the municipality ought to be guided by the advice of experts who would be there for the purpose of advising. So the balance which weighs so much with the mover does not weigh so much with Government. That is the important point.

The motion of Rai Bahadur Kamini Kumar Das was then put and lost.

Mr. PRESIDENT: The question is that clause 440, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 441.

Mr. PRESIDENT: The question is that clause 441 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move the following amendments:—

"That in clause 441 (c), in line 3, after the word 'schools' the words 'libraries and museums' be inserted.

That to clause 441 (*c*) the words 'libraries and museums' be added."

Sir, however much the Hon'able Minister might decry libraries and museums as my special hobby, I cannot but sincerely plead for the spread of education——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am prepared to accept these amendments, provided Rai Mahasai will not move further amendments.

The motions of Munindra Deb Rai Mahasai were then put and agreed to.

Mr. PRESIDENT: The question is that clause 441, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 442.

Mr. PRESIDENT: The question is that clause 442 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that clause 442 be omitted.

Sir, this is a new clause introduced in this Bill. I think that it is unnecessary because Government may, under the provisions of the previous chapters, make rules as to how the funds may be allocated. I would refer the Hon'ble Minister to clause 110 (*a*) which regulates the allocation of funds for the purposes to which it is applicable. It is not only unnecessary in view of that, but I would also submit that it is wholly vicious. The clause says that if the education cess is not levied in any municipality provided by section 17 of the Bengal Primary Education Act, 1919, the Local Government may, by general or special order, prescribe the percentage of the income of that municipality (other than the income derived from the lighting, water and conservancy rates) which shall be applied to the purposes of primary education within the municipality. I think, Sir, that when the municipalities have been given the right to prepare their own budgets without any interference, this is an attempt by a side-wing to make them conform to the wishes of the Local Government——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, Government is prepared to accept this amendment.

The motion was put and agreed to.

Clause 443.

Mr. PRESIDENT: The question is that clause 443 stand part of the Bill.

The motion was put and agreed to.

Clause 444.

Mr. PRESIDENT: The question is that clause 444 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that clause 444 be omitted.

Sir, this clause enunciates a bad practice and it shows that Government is lacking in confidence in the competence of the commissioners. I do not think, therefore, that this clause ought to be passed into law. The clause lays down that the Local Government may make rules—

(*i*) determining the classes of schools which may be maintained or aided by the commissioners;

(*ii*) regulating the construction and repair of buildings connected with such schools, including hostels;

(*iii*) regulating the appointment and salaries of masters and assistant masters of such schools;

(*iv*) regulating the establishment of scholarships generally, or for the furtherance of technical or any other special form of education; and

(*v*) regulating the conduct of business and duties of education committees.

Sir, this is a retrograde clause which is attempted to be introduced into the proposed Bengal Municipal Act and it shows that Government thinks that the municipal commissioners are not competent enough as to make rules how to construct and repair school buildings, how to determine the classes of schools that should be maintained and that rules should be framed by the Local Government for these purposes. Sir, this is such a retrograde provision that there is no other provisions in this Bill which can be compared with this and this is really a negation of true local self-government and of democracy. If the Local Government wants to interfere even in matters whether the commissioners can repair a school building or construct a building for the school or can repair school hostels, then I think the commissioners will have nothing to do and the municipalities will be nothing but an additional department of the Secretariat and it may not be called a local self-government institution. With these few words, I move my amendment for the acceptance of the House.

Babu KISHORI MOHAN CHAUDHURI: I support the motion.

3-15 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. This is based on the existing section 69 (*b*) of the Municipal Act, and it is an old provision to secure uniformity in the standard of teachers and their pay, and the construction and maintenance of sanitary buildings for the purposes of schools. Unless there is a general standard laid down, every municipality will try to have its own rules, and there will not be any uniformity at all. Uniformity is a very

important question in a matter like this. Moreover, as we know, the Hartog Committee reported that in Bengal the teachers are very poorly paid, and generally they are inefficient; so unless a standard is fixed about their pay and qualifications, the poorer municipalities will naturally be tempted to appoint men at a very low rate of pay, and I would ask the House to judge for itself the effect of the teaching by such poorly paid and unqualified teachers on the future generation of Bengal. That is the object which we want to secure. It is really in the interest of these school children, it is really in the interest of the future generation of students, that this clause has been put in. Moreover, it is nothing new; it is based upon an existing section, and is only an amplification of that.

Mr. B. C. CHATTERJEE: There is a very strong feeling amongst a considerable number of the members of this House with regard to this section, and may I appeal to the Hon'ble Minister to take some note of this feeling, and may I suggest a little compromise, with your permission, to this effect, that Government may retain sub-clauses (*i*) and (*v*) of this clause, and delete the other sub-clauses. I would ask the Hon'ble Minister to accept this suggestion. It secures all the essentials.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: But (*3*) is very important.

Khan Bahadur Maulvi AZIZUL HAQUE: I quite realise the need of amendment, but at the same time there is also a growing public feeling that if anybody is responsible for the low rate of pay, the arch criminal is the Government itself, and with a direct irresponsibility, it is possible that you might fix a standard which it may be impossible for a municipality to maintain. Ultimately it is a question of finance, and if there is no finance, the municipalities are helpless. The Hon'ble Minister will agree that in Bengal, the Bengalis should have a free hand, as I think in that respect every Indian Minister who has held the portfolio of Education, has tried to improve the lot of the teachers. Then, as regards buildings, I think Mr. Stapleton will remember that he himself issued a circular that the present rules about buildings and other things may be abbrogated so far as private schools are concerned, with a view to develop local institutions.

Mr. NARENDRA KUMAR BASU: I think the clause which is disturbing the Hon'ble Minister and which he is anxious to retain is sub-clause (*iii*) and he seems to think that it is the same as section 69B of the existing Act. Section 69B is: "The Local Government may from time to time make rules prescribing the qualifications of candidates for employment." That, I submit, is totally different from clause 444, sub-clause (*iii*); "prescribing qualifications" is one thing, and "for

the Local Government to regulate the appointment and salaries of masters and assistant masters of such schools" is a different proposition. In view of that, I hope the Hon'ble Minister will not object to give up sub-clause (*iii*) also, as suggested by Mr. Chatterjee.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I just explain that the regulating of appointments and salaries of teachers is a very important point, and it is to secure uniformity about the pay and qualifications of teachers, and the establishment of scholarships or for the furtherance of technical or any other special form of education that these clauses have been inserted?

Mr. NARENDRA KUMAR BASU: Every municipality will cut its coat according to its cloth.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, but may I remind the hon'ble members that the rules which Government will lay down will be wide enough to accommodate both Howrah and Chakdah?

As regards building regulations, I am prepared to accept the compromise. But if you want to lay down any standard at all, that standard should be about the pay and qualifications of teachers, and the class of teaching they may undertake. It is no use having rules if you omit this.

Before you put this to vote, Sir, there is another point on which I would like to move an amendment on the advice of the Education Department. It will come into this clause 444.

Khan Bahadur MUHAMMAD ABDUL MOMIN: May I speak at this stage, Sir? I am not quite in agreement with Mr. Chatterjee: I want to emphasise the point about (*iv*). I am not willing to give up sub-clause (*iv*) from this section, because I think it is rather important that Government should have some sort of hold on the municipality, some sort of check on their giving out scholarships in a haphazard manner. I know of instances where scholarships have been granted by municipalities to students living outside India, and prosecuting their studies in England, while local scholarships to students who deserve it more than those studying in England and other countries, were denied. By canvassing, a lot of injustice is done in such cases. Therefore, I would prefer that Government should regulate the granting of such scholarships. I would oppose very strongly the deletion of sub-clause (*iv*). Of course I agree as regards sub-clause (*ii*) and (*iii*).

Mr. PRESIDENT: I would like Mr. Chatterjee to read out the amendment he wanted to move.

Mr. B. C. CHATTERJEE: In view of what my friend Mr. Momin has said, I move that sub-clauses (*ii*) and (*iii*) of clause 444 be omitted.

Reverend Mr. B. A. NAG: May I make an appeal to the Minister not to omit sub-clause (*iii*)? It is very important. We know from our experience how important it is. Sub-clauses (*i*), (*iii*), (*iv*) and (*v*) are all very very important. We know that from experience in certain schools, and I hope the Hon'ble Minister will not yield to this pressure.

Dr. AMULYA RATAN GHOSE: I beg to leave to withdraw my amendment.

The motion of Dr. Amulya Ratan Ghose was then, by leave of the Council, withdrawn.

The motion that sub-clauses (*ii*) and (*iii*) of clause 444 be omitted was then put and a division taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kisheri Mohan.
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Khan Bahadur Maulvi Ali-muzzaman.
Choudhury, Maulvi Nural Absar.
Chowdhury, Maulvi Abdul Ghani.
Eusufji, Maulvi Nur Rahman Khan.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Guha, Babu Profulla Kumar.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hossain, Maulvi Muhammad.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Law, Mr. Surendra Nath.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mookerjee, Mr. Syamaprosad.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Poddar, Mr. Ananda Mohan.
Poddar, Seth Rununan Prasad.
Rahman, Maulvi Azizur.
Raikat, Mr. Prosanna Deb.
Rai Mahasai, Munindra Deb.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Haseni.
Roy, Babu Satyendra Nath.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Nem Chandra.
Saadatullah, Maulvi Muhammad.

NOES.

Armstrong, Mr. W. L.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammad.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Burai, Babu Gokul Chand.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Das, Rai Bahadur Kamini Kumar.
Dutt, Rai Bahadur Satyendra Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Sushi Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdul-karim.
Gilchrist, Mr. R. N.
Gupta, Mr. J. N.
Henderson, Mr. A. G. R.
Hodge, Mr. J. D. Y.
Hussain, Maulvi Latafat.
Khan, Maulvi Amin-ur-Zaman.
Khan, Mr. Razaur Rahman.
Mitter, the Hon'ble Sir Provash Chunder.

Mullick, Mr. Mukunda Behary.
Nag, Babu Suk Lal.
Nag, Reverend S. A.
Nazimuddin, the Hon'ble Mr. Khwaja.
Peare, Mr. E. F.
Philpot, Mr. H. C. V.
Ray, Babu Nagendra Narayan.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarkar, Babu Sonat Bihari.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. S. R.
Sen, Mr. Girin Chandra.
Stapleton, Mr. H. E.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 39 and the Noes 46, the motion was lost.

3-30 p.m.

Mr. H. P. V. TOWNEND: With your permission I beg to move a consequential amendment, *viz.*—

"That in clause 444 (*n*), line 2, the words 'including hostels' be omitted."

The two words "including hostels" appear in this sub-clause. Owing to provisions for expenditure on hostels having been omitted by the House, I would move that these two words be omitted.

The motion was put and agreed to.

MUNINDRA DEB RAI MAHASAI: I beg to move that after clause 444 (*r*) the following be added, namely:—

"(*rr*) for submission of an annual report on the working of schools, libraries, museums and students' hostels by the Education Committee for inclusion in the administration report".

I think the Hon'ble Minister will not object to the inclusion of the proposed sub-clause (*rr*), for the addition of a few lines from the Education Committee's report in the administration report of the municipality will not be either a laborious task or an expensive affair. I hope nobody will underrate the value of comparative statistics in such important educational matters.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: This is quite unnecessary in view of the administration report of the municipalities. Every municipality must submit an administration report. Hostels and education come within the general administration of the municipality. So, no separate administration report is necessary.

The motion of Munindra Deb Rai Mahasai was then put and lost.

Mr. PRESIDENT: The question is that clause 444, as amended by the Council, stand part of the Bill.

Clauses 445 to 449.

Mr. PRESIDENT: The question is that clauses 445 to 449 stand part of the Bill.

The motion was put and agreed to.

Clause 450.

Mr. PRESIDENT: The question is that clause 450 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: I beg to move that clause 450 be omitted. In view of the amendment of clause 297 in Chapter IX, clause 450 and part of 451 go out automatically.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It is a consequential amendment and I accept it.

The motion of Mr. Narendra Kumar Basu was then put and agreed to.

Clause 451.

Mr. PRESIDENT: The question is that clause 451 stand part of the Bill.

Babu BENOD BIHARI SARKAR: With your permission I beg to move that in clause 451 (*1*) (*u*), in lines 3 and 4, for the words "a token issued by the commissioners" the words "a mark distinguishing it as private property" be inserted and also in line 9 the words "together with ..... due" be omitted.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 451, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clauses 452 to 485.

Mr. PRESIDENT: The question is that clauses 452 to 485 stand part of the Bill.

The motion was put and agreed to.

Clause 486.

Mr. PRESIDENT: The question is that clause 486 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: I beg to move that in the table to clause 486 the entries relating to section 169 be omitted. This is a consequential amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I accept that.

The motion of Mr. Narendra Kumar Basu was put and agreed to.

Babu SATYENDRA NATH ROY: I beg to move that in the table to clause 486 after the entries relating to section 229 the following be inserted, namely:—

"Section 229A	Requisition on owner of any pool, ditch, tank, etc., which causes damage	One hundred rupees.	Ten rupees."

I move it in a slightly altered form. The thing would be "pool, ditch or tank" in view of the amended clause 229 (*a*) which was accepted by the Hon'ble Minister.

The motion was put and agreed to.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that in clause 486, in the second column of the entry relating to section 431, after the words "notice of" the words "birth or" be inserted. Birth and death should go together.

The motion was put and agreed to.

3-45 p.m.

Mr. NARENDRA KUMAR BASU: I beg to move that in the table to clause 486 the entries relating to section 450 be omitted.

Sir, this is consequential.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 486, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clauses 487 to 490.

Mr. PRESIDENT: The question is that clauses 487 to 490 stand part of the Bill.

The motion was put and agreed to.

Clause 491.

Mr. PRESIDENT: The question is that clause 491 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: I beg to move that to clause 491 (*1*) the following be added, namely:—

> "and subject to the proper consideration of objections to be submitted within a reasonable time not less than three months by the commissioners or by the public".

Sir, in the clause it is not clearly stated within what time the objections have got to be submitted or who should submit the objections. To make the clause more lucid and more clear, I suggest that these lines should be added.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, this amendment is quite unnecessary in view of the fact that no by-laws are framed without publishing them in the *Calcutta Gazette* and without hearing objections. About one month's time is given for hearing objections. The hon'ble member wants to extend the time to three months which seems to be too much.

The motion of Dr. Amulya Ratan Ghose was put and lost.

Mr. PRESIDENT: The question is that clause 491 stand part of the Bill.

The motion was put and agreed to.

Clauses 492 to 499.

Mr. PRESIDENT: The question is that clauses 492 to 499 stand part of the Bill.

The motion was put and agreed to.

Clause 500.

Mr. PRESIDENT: The question is that clause 500 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that to clause 500 (*1*) the following be added, namely:—

> "If no time is specified in this Act or in any rule or by-law made thereunder for the execution of such works or the doing of such thing the notice shall prescribe a reasonable period for carrying the requisition into effect, and shall be served as provided in this sub-section."

Sir, it is a self-explanatory amendment and I do not think I need say anything.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 500, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clauses 501 to 507.

Mr. PRESIDENT: The question is that clauses 501 to 507 stand part of the Bill.

The motion was put and agreed to.

Clause 508.

Mr. PRESIDENT: The question is that clause 508 stand part of the Bill.

The motion was put and agreed to.

Clauses 509 and 510.

Mr. PRESIDENT: The question is that clauses 509 and 510 stand part of the Bill.

The motion was put and agreed to.

Clause 511.

Mr. PRESIDENT: The question is that clause 511 stand part of the Bill.

Rai Bahadur SATYENDRA KUMAR DAS: I beg to move that in clause 511 (*1*), in line 5, after the word "disputed" the following be inserted, namely:—

> "or if the owner or owners fail to pay taxes or rates for twelve consecutive quarters."

Sir, difficulties are often experienced in realising taxes by civil suits which cause delay. By this addition the municipality will have power to realise the taxes without recourse to civil suits.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, Rai Bahadur moved a similar amendment the other day and I had to oppose it. I also oppose the present amendment on similar grounds. It will be very hard on the ratepayers if Rai Bahadur's amendment is accepted.

The motion of Rai Bahadur Satyendra Kumar Das was put and lost.

Mr. PRESIDENT: The question is that clause 511 stand part of the Bill.

The motion was put and agreed to.

Clauses 512 to 515.

Mr. PRESIDENT: The question is that clauses 512 to 515 stand part the Bill.

The motion was put and agreed to.

Clause 516.

Mr. PRESIDENT: The question is that clause 516 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: I beg to move that clause 516 (*3*) be omitted.

Sir, sub-clause (*3*) runs in these terms—

"Except on appeals from sub-section (*3*) of section 126, section 356, section 402, section 404, section 407, section 506 and section 507, the order of the appellate authority confirming, setting aside or modifying the prohibition, notice or order appealed from shall be final and shall not be questioned in any court:

Provided that the prohibition, notice or order shall not be modified or set aside until the appellant and the commissioners have had reasonable opportunity of being heard."

Sir, speaking for myself I must say that I do not profess to understand the meaning of this proviso at all. Sir, if something is final, then how can you provide that the prohibition, notice or order shall not be modified or set aside until the appellant and the commissioners have had reasonable opportunity of being heard? This is more than I can make out. Then, Sir, so far as the clause itself is concerned, I do not understand this anxiety in every case, or rather in every conceivable

case, that the orders of the municipal authorities shall not be questioned in any court. Sir, the orders of the municipal authorities have not been questioned in court in any large number for the last 50 years in these matters. But it is within the range of practical politics that the orders which may be passed even by the appellate authorities in a municipality may be *ultra vires* or may not be within their power to make, or they may be interfering with private rights. I, therefore, ask the House to delete this clause and this absolutely unmeaning proviso.

Mr. H. P. V. TOWNEND: Sir, the proviso means that the three appeal Commissioners who hear the appeal should not pass orders for setting aside or modifying the prohibition, notice or order until the appellant and the municipal commissioners have had reasonable opportunity of being heard. That is the meaning of the proviso. It may not be a perfect proviso, but the remedy proposed is drastic. I would not go so far as to delete the proviso because the wording is not happy. Mr. Basu's criticisms in this respect were like those advanced here the other day in connection with nuisances. He wants to get rid of everything, root and branch, if the wording is not happy. His remedy is very drastic, especially as his criticisms really apply to the words "and shall not be questioned in any court."

Khan Bahadur Maulvi AZIZUL HAQUE: I suggest that this proviso should be added to clause (*l*). That was really what was intended. Then any person aggrieved by an order shall appeal to the Commissioners and every such appeal shall be heard with the proviso that the order shall not be modified until they have had an opportunity of being heard. I say, therefore, that this proviso, apart from Mr. Basu's amendment, should come under clause (*l*) and with your permission, Sir, I should like to move a short-notice amendment to that effect.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may we have some time to have this examined? It is very difficult to accept an amendment on the floor of the House. It may afterwards lead to further complications.

Mr. PRESIDENT: Is it your suggestion that the consideration of clause 516 should stand over?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, Sir.

The consideration of the clause was accordingly postponed.

Clauses 517 to 519.

Mr. PRESIDENT: The question is that clauses 517 to 519 stand part of the Bill.

The motion was put and agreed to.

Clause 520.

Mr. PRESIDENT: The question is that clause 520 stand part of the Bill.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 520 (2), in line 2, for the word "six" the word "twelve" be substituted.

Sir, I want to extend the period. This clause says: "every such suit or proceedings shall be commenced within six months next after the accrual of the cause of action and not afterwards." Sir, this is a very short time; in other such instances, *e.g.*, under the Limitation Act, the time allowed is sometimes 12 years, 6 years, 3 years and so on, and I submit that in the case of these suits some time should be given to the parties to be ready, because perhaps in these suits the parties would require some time to prepare themselves and to take instructions from pleaders. So I have suggested that in suits of this nature instead of six months, 12 months' time should be given.

Babu SATYENDRA NATH ROY: Sir, I oppose this amendment. The Select Committee has already extended the time from three months to six months and this is quite enough to bring action against public bodies. It is not right that action should be brought after a long time.

4 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Exactly on the same ground I rise to oppose the motion. It is three months in the existing Act and the Select Committee changed it to six months, and now again it is proposed to extend it to 12 months. I cannot agree to it and I, therefore, oppose it.

The motion of Maulvi Syed Majid Baksh was then put and lost.

Mr. PRESIDENT: The question is that clause 520 stand part of the Bill

The motion was put and agreed to.

Clauses 521 to 528.

Mr. PRESIDENT: The question is that clauses 521, 522, 523, 524, 525, 526, 527 and 528 stand part of the Bill.

The motion was put and agreed to.

Clause 529.

Mr. PRESIDENT: The question is that clause 529 stand part of the Bill.

Babu SATYENDRA NATH ROY: I beg to move that for clause 529 the following be substituted, namely:—

"529. The Local Government shall constitute a board called the Local Government Board consisting of thirteen members of which six shall be officials and six non-officials experienced in the administration of municipalities with the Hon'ble Minister in charge of Local Self-Government as Member and President and all powers conferred by this Act on the Local Government shall be exercised by such board."

It is for the constitution of a board of Local Government consisting of 13 members of which six shall be officials and six non-officials, experienced in the administration of municipalities, with the Hon'ble Minister in charge of Local Self-Government as Member and President and all powers conferred by this Act on the Local Government shall be exercised by such board. I have heard my friend, the Hon'ble Minister, speaking of the chairman of a municipality exercising his powers in terms of distrust and he is very jealous of the chairman exercising powers and appointing even a burning *ghat* sub-registrar, who receives a pay of Rs. 15 or 20 per month only. The Hon'ble Minister is now in charge of 117 municipalities in Bengal; there are about 500 nominated members in all those municipalities and the power of nominating them lies with him. For the guidance of himself or of future Ministers, it is absolutely necessary that such a board should be constituted. There is a Local Government Board in England, and it is only fair that such a board should also be constituted here. I hope, therefore, the Hon'ble Minister will not reserve the powers to himself or for any future Minister who may come after him.

Mr. S. M. BOSE: I rise to oppose the amendment. This amendment is based entirely on a wrong idea of the existence of an alleged Local Government Board in England. No such Local Government Board exists in England.

My friend is apparently thinknig of the old Local Government Board instituted in England by the Local Government Board Act of 1871. May I state as briefly as I can what the law was then? By the Act of 1871 a Local Government Board was formed which consisted of a body entirely of officials under the President of the Local Government Board, a Minister responsible to the House of Commons. I want it to be noted that all the members of the so-called Local Government Board were entirely official members—the Lord Privy Seal, the principal Secretaries of State and the Chancellor of the Exchequer. Further, this board never met at all actually; it was purely a paper board and all the power was vested in one man, the President. It was really a one man show, *viz.*, the President of the Board, who was answerable to Parliament. Now, even this paper board was abolished by section 3 of the Ministry

of Health Act of 1919, by which all the powers and duties of the previously existing Local Government Board were entrusted in the hands of a Minister of Health who was a Member of the Cabinet and was thus responsible to the House.

Now, in this amendment, Mr. Roy has proposed that the board to be formed should exercise all the powers of the Local Government under this Bill. That is indeed, Sir, astonishing. Does he really understand that this will take away all the responsibility of the Minister to this House? Does he realise the folly of a proposal like this which will enable the Hon'ble Minister to shirk his liability to this House and hide himself behind Local Government Board, saying "I have no hand or control over that board, but I am bound by it"? It is an integral part of our constitution that the Minister should be responsible to the House and that he should be liable to be turned out of office for any act not approved by it. Does the mover realise that the effect of his amendment would be only to set up an irresponsible board, a board which will be absolutely autocratic, a board from whose orders there shall be no appeal, and a board which would be beyond any control by this House? It is a most dangerous move to take away the power of control which we in this House have and hope still more to have, over the Minister of Local Self-Government, a move to set up an autonomous, irresponsible body to do whatever it likes. I, therefore, strongly oppose this amendment.

Mr. ANANDA MOHAN PODDAR: Sir, I support with all earnestness the amendment moved by my hon'ble friend, Mr. Satyendra Nath Roy. It is necessary that the Local Government should exercise some powers of control over the affairs of municipal administration. And these powers of control have been provided for the Local Government by the various sections of the present Bill. But in exercising these powers of control the Local Government should take the help and co-operation of experts and persons experienced in municipal administration. So, I propose that a board called the Local Government Municipal Board should be constituted with the Hon'ble Minister as President and six official experts and six non-official members experienced in municipal administration. This board with official majority will be a source of great help to the Hon'ble Minister. If, on the other hand, the powers of control be left to the Local Government alone, that power will usually be exercised by the Divisional Commissioners and District Magistrates who in their turn will act according to their individual whims and caprices. This only leads to friction between municipal authorities and district officials, but if the controlling powers be entrusted on the proposed board, that will ensure uniformity of control on all municipalities. If the number proposed in the amendment be considered too unwieldy, the Hon'ble Minister may accept it by reducing the number

to three experts and three non-officials with himself as President. In that case a board consisting of four officials and three non-officials will not be a very large or unwieldy body. If properly constituted, it will surely be very helpful to the Hon'ble Minister in charge of the department to discharge the duties and will make the Government popular. Sir, I hope the Hon'ble Minister will find his way to accept this amendment. We have been assured, off and on, that the object of the present Bill is to democratise the municipal administration of Bengal. By accepting this proposal, the Hon'ble Minister will only furnish a definite proof of his sincere desire to make the Bill really popular.

Dr. NARESH CHANDRA SEN GUPTA: I support this amendment. I have not had the pleasure of listening to the speeches already made, but I heard almost the last words of the speech of my friend, Mr. S. M. Bose, and in that speech he was pleased to make out certain principles of political organization with which, I am sorry I am entirely in disagreement. Mr. Bose thinks that the only authority in the country ought to be this Council and the Minister ought to be responsible to this Council and to nobody else. He thinks that it is in that way that the local administration can be best improved. But, Sir, I do not see exactly how the fact that the Minister is assisted by a board will take away his responsibility to this Council or how it would prevent the Council exercising the sort of control that it can exercise now over a Minister; because if the Council cannot hold the Minister personally responsible, the Council can at least hold the Local Government Board responsible and can refuse any grant to the board if anything is done by the board with the Minister as its President, which this Council disapproves; that is the most effective way in which the Council can exercise its control, whether it is the act of the Local Government Board or of the Minister. I do not see, therefore, how it makes any difference in the matter of exercising control over the actions of the Government in the administration of the Local Government Department.

Again, I cannot conceive that Mr. Bose is unaware that at the present time there is a great movement of thought in favour of decentralization of control, the control exercised by Parliament, and there has been a very strong and powerful body of political opinion which holds that even Parliamentary control has become almost illusory because Parliament cannot exercise its control with that amount of expert knowledge which questions of detail require. What control can this Council exercise over the problems of a particular municipality, say, Jessore, Dacca or Narayanganj? This Council has not got the necessary knowledge; it has also not got the necessary capacity, I should say, to consider such questions. In order to deal with these matters adequately, one has got to go into details of which a majority of members of this House cannot be expected to have any knowledge.

That is one of the difficulties of the Parliamentary system of administration, which has been commented upon by later political philosophers. Parliament or a Legislative Council cannot be expected, to use a word used by Professor Laski, to "expertise" on subjects dealing with the details of local administration. For this reason, it is necessary to have a body which would be popular in constitution, and capable, by reason of its expert knowledge, of giving proper guidance to the local administration. And it would be necessary, very much necessary, to give proper guidance to our municipalities. Under the present Bill a great deal of powers have been given to municipalities, which they will have to exercise. While it is certainly desirable that municipalities should be left to exercise their powers and to carry on their duties under this Act without constant interference of Government, it is at the same time a fact which cannot be denied that municipalities have not the resources by which they can get expert advice in many matters. Therefore, municipalities will have to be, not interfered with, but rather to be supplied with necessary advice and guidance in the exercise of these powers. At present they get from the Local Government this guidance through its experts but there is now no organised system for advising the municipalities with regard to their work. If you have a Local Government Board of this character, you would be providing an agency by which advice and assistance can be made available to the municipalities and by which we can help them over the stile when the occasion arises.

4-15 p.m.

And they will be able to get from the official members all the assistance necessary from Government for the purpose of helping municipalities. There would thus be a body which would be able to devote themselves to real work in assisting the municipalities. For that reason I strongly advocate the constitution of the board. It will not take away in any measure the control which this Council can exercise over the Local Government Board because the Council will always have the power to vote on grants and that is the only way in which we can keep an effective control over any department of Government.

Mr. H. S. SUHRAWARDY: Sir, if the effect of the amendment had been that a board will be created which would merely advise the Hon'ble Minister and help him with advice and guidance, I would have supported the amendment, but if the amendment means, as it does, that all the powers conferred on the Local Government by this Act will be exercised by this board, *i.e.*, it will be an executive body, then we are not prepared to have twelve more Ministers of Government for the purpose of administering local municipalities. I would, however, ask

the co-operation of the members of the House to having the entire clause (§29) deleted. There seems to be no reason whatsoever why the Local Government should delegate any of its powers to Commissioners of Divisions who will not be amenable to the control of this Council. We hope that in course of time, and that at no distant time, the posts of commissioners will be abolished: in that case an amendment of this clause would be necessary.

Mr. NARENDRA KUMAR BASU: Sir, I agree with my friend, Dr. Sen Gupta, that if this board is to be constituted for the purpose of advising the Minister, then it is certainly desirable that such a board should be constituted and I agree that the functions of the board, at least for the present, ought to be advisory; but, Sir, I do not agree with the queer idea, if I may say so without disrespect, of Mr. S. M. Bose that such a board, if formed, would be autocratic and not democratic. If the history of the Local Government Board which Mr. Bose has detailed to the members of the House be looked into, it will be found that instead of relying on one man alone, Government in England set up a board several years ago in order to make rules for the guidance of the local boards. It was only recently that the Public Health Ministry took charge of the Local Self-Government Board and I would remind the members of this House that this question of a Local Government Board was first mooted, I believe, in this country in the year 1915 in a despatch of the Government of India. The idea was circulated to all the Local Governments by the Government of India. Most of the Local Governments supported this idea, but our Bengal Government opposed it; then in 1919 the whole question was again gone into by the Government of India. The Government of India said that they had taken note of the opposition of the Government of Bengal, but they trusted that when the time came for considering the whole question of the revision of the Municipal Act and when the Municipal Act was on the legislative anvil, the Government of Bengal should give particular attention to the question of the formation of the Local Government Board in which the non-official members of the Legislative Council should be in a majority; that is what the Government of India said. I am sorry that at the time when the Bengal Municipal Bill was before Government in its previous stages or in the Select Committee, this question was not gone into at all. However, it is not too late yet, and I may submit and also remind the members of the House that the whole question was elaborately gone into by a committee presided over by the late Sir Surendra Nath Banerjea, and so far as I remember, no final report of that committee ever saw the light of day. I do, however, submit that the time has come when, in the words of the Government of India, the Government of Bengal ought to re-examine the whole question and see whether a board primarily consisting of non-official

members should not be constituted at least in an advisory capacity. So, with your permission, Sir, I would move an amendment, namely, that after the word "exercised" in the last line the words "with the advice of such board" be added.

Babu SATYENDRA NATH ROY: Sir, I accept the change proposed by Mr. Basu.

Mr. B. C. CHATTERJEE: Sir, I think my friend, Mr. Bose said that the Board of the Ministry of Public Health in England was an advisory committee whose advice the Minister could or could not take and even then that board was abolished. In this amendment we have suggested six non-officials and six officials who are not members of this Council. Over these gentlemen we would have no control, and according to Mr. Basu's amendment, the Minister would be liable to be overridden by people who were not responsible to anybody for what they did.

My friend Mr. N. K. Basu's fresh amendment only lets the devil in by the backdoor; it does not remove the difficulty which is in the original amendment. It suggests that the Minister shall act on the advice of these 12 gentlemen; but suppose the Minister differs from these 12 gentlemen, then what is to happen. I take it what my friend wants is that this committee shall advise the Minister in respect of the powers conferred by this Act on the Local Government. If it is the intention that an advisory board is to be created for the purpose of advising him in the matter of powers conferred by the Act, then I can understand it. Sir, what I want to know is whether the Minister *must* act on their advice: in that case, we must oppose the suggestion, inasmuch as the twelve men must necessarily be outside the scope of the Council's control, and the vesting of a compelling power in them would place the Local Self-Government Department under the control of an undiluted bureaucracy; on the other hand, if Mr. Basu's amendment would leave to the Minister the right to differ from this advice and come up to the Council for its approval, then we would all agree. The whole question is whether it is to be purely an advisory body from whose advice the Minister might differ, or whether the Minister must act on the advice of the board? I would suggest that such a board could only be an advisory body. All that I ask for is that the Minister shall not be bound by the advice of this committee. I have no doubt the Hon'ble Minister will accept this suggestion and evolve a formula which will secure the object we have in view, i.e., that he must not be compelled to act on the advice of the board but whose advice he may take for guidance and help.

4-30 p.m.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I find that neither the original amendment nor the amended one is acceptable to us. We do not think that the executive authority of the Minister ought to be hampered by a body of 12 members who will more or less be obstructive rather than helpful. We have found from experience that administrative duty is much better done if the administrator be left to his own discretion more freely, than if a Minister, in a case like this, in every action which he proposes to take, has to take the advice of the 12 members who form the board. Then, if by his amendment, Mr. Basu only wants to make the board an advisory one, I do not think that his suggestion will serve the purpose at all, because he says that the Minister will exercise these powers on the advice of this body. It follows that he cannot act without that advice, and, therefore, for every one of his actions he must take this advice and follow it. If he does not follow it, he will be putting himself in a difficult position. I think the Minister should only be responsible to this House and to nobody else. If he really wants advice, this is always open to him, and without legislating he can call for a small committee or a conference to give him technical advice, but I think he should not be bound by a section in the Act itself in the manner which has been suggested, and if there is any other objection which can be made against this, it is the fact that they want to put the membership at thirteen, and this is very serious.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: At the outset, I must remind the hon'ble members that we are not discussing the question of the formation of a Local Government Board in abstract, but we are discussing a definite amendment with regard to a certain clause of the Bengal Municipal Bill. Whether the formation of a Local Government Board is necessary, is a question which is absolutely independent of the issue before the House. I do not propose at this stage to go into the merits or demerits of the formation of a Local Government Board. Whether it will be helpful or will handicap the Minister is a question which we need not discuss at present, but I beg to submit that from the speeches that have been delivered on the floor of this House to-day, and from the discussions which I have had with members of the House in Select Committee, I found that their ideas about the functions and formation of a Local Government Board were purely nebulous. They have heard of Local Government Board; that there existed a body like that in England in the old days, but what its functions were and how it functioned, and what effect it had on the municipalities or on local self-governing bodies, they had not the slightest idea. I find that in 1919 the Government of India sent a deputation to England with the late Sir Surendra Nath Banerjea at its

head to examine this question. The deputation went into the matter very carefully and examined it, and they discovered that though there existed a body called the Local Government Board, it existed only on paper, and the word "board" was a misnomer, because though it consisted of several Ministers of the State, it was only one Minister who did the whole work. I should say that he was the board, and the board never met in the whole course of its existence. The board was abolished by the Act of 1919 which formed the Ministry of Public Health. This fully demonstrates that the idea of my hon'ble friends is absolutely nebulous and shadowy, and they want to thrust something upon Government which yet requires examination, which requires analysis. What is this local governing board going to do? The mover of the amendment said that it was going to be an executive body, it will also co-ordinate with the Ministry of Local Self-Government. On the floor of the House, on the advice of Mr. N. K. Basu, the amendment was suddenly changed into an advisory body, a very quick transition indeed. This in itself shows that my friends have not yet been able to make up their mind. If a body like the Local Government Board is formed, it will not only control the municipalities of Bengal, but the district boards in Bengal, and the Calcutta Corporation; so its functions, duties and constitution have got to be very carefully analysed and laid down. Its powers *vis-a-vis* with the Ministry of Local Self-Government has got to be defined. As was pointed out by Mr. Basu, the Minister for Local Self-Government is responsible to this House, whereas these 12 members will have no such responsibility. They will be absolutely independent persons. If the idea is that it should be purely an advisory body, then what is the good of having another body when a Standing Committee for Local Self-Government already exists? What is the use of having a glorified body called the Local Governing Board? The Ministry of Local Self-Government is always guided by the advice of the Standing Committee for Local Self-Government, but if the idea is that the advice should be binding, then that is a proposal which has got to be carefully examined and not accepted on the spur of the moment. Sir, I will just read out, to substantiate my statement, the report of the deputation which went to England with Sir Surendra Nath Banerjea at its head in 1919. The committee stated: "We wish to begin by emphasising the fact that the appellation 'Local Government Board,' as applied to the controlling authority in England, is entirely misleading. There was nominally in the past a board containing several Ministers of State, but this has never in the course of its existence met or transacted any business as a board. In practice, the Local Government Board has been a department of Government working under a single Minister who exercised all its powers. The fiction has now been swept away, the Local Government Board having been abolished by the Act of 1919 constituting the Ministry of Health. To set up a board or committee with powers of control or an intermediary

between the local bodies and a Government department would thus in no sense be in accordance with English practice and in our opinion would certainly lead to friction, both with the Government Department and with the local bodies and to delays. . . . . ."

That is the opinion of the deputation that went to England. I think this sounds a note of warning and I would ask my hon'ble friends to take a note of it. Sir, if it is the intention of the Hon'ble Members that this point should be examined independently, not in connection with this Bill, but as an independent proposition altogether, Government would be glad to do so, but this cannot be considered as an amendment to this Bill. It would be too hasty. Therefore, I ask my hon'ble friend to withdraw it in view of the report I have just read out.

[At 4-45 p.m. the Council was adjourned for prayer and it reassembled at 5 p.m.]

Babu SATYENDRA NATH ROY: On the assurance given by the Hon'ble Minister that the constitution of this local governing board will receive due consideration, but independent of the Bengal Municipal Bill, I beg leave to withdraw the amendment.

The motion of Babu Satyendra Nath Roy was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that clause 529 stand part of the Bill.

The motion was put and agreed to.

Clause 516.

The motion of Mr. Narendra Kumar Basu that clause 516 (*3*) be omitted was then put and lost.

Mr. H. P. V. TOWNEND: I beg to move that the proviso to sub-clause (*3*) of clause 516 be transferred after sub-clause (*1*).

It has been agreed that the words "and shall not be questioned in any court" should be omitted from sub-clause (*3*) and re-inserted in sub-clause (*1*) of this clause.

The motion was put and agreed to.

Mr. H. S. SUHRAWARDY: I beg to move that in the proviso to sub-clause (*1*) of clause 516, line 2, after the words "set aside" the words "or confirmed" be inserted. I call this a consequential amendment because Government have accepted in an amended form that no order shall be passed *ex parte*. I think the Hon'ble Minister will accept this.

Mr. H. P. V. TOWNEND: Government have no objection.

The motion of Mr. H. S. Suhrawardy was put and agreed to.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 516 (*3*), in lines 5 and 6, the words "and shall not be questioned in any court" be omitted. For this ouster of jurisdiction of the court will not be helpful. So I propose this amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I accept it.

The motion of Maulvi Syed Majid Baksh was put and agreed to.

Mr. PRESIDENT: The question is that clause 516, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 530.

Mr. PRESIDENT: The question is that clause 530 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that in clause 530, in lines 1 and 2, after the words "District Magistrate" the words "or the Magistrate in charge of a subdivision when he is not a member of the municipality" be inserted, and, in line 4, after the word "district" the words "or subdivision" be inserted.

This thing was omitted by the Select Committee and I think I ought to inform the House why I propose to re-insert it. Government very carefully considered this question and I think they have given sufficient proof of their desire to respect the wishes of the Select Committee. But they could not shut their eyes to practical difficulties. There are big districts with 30 or 40 municipalities—I mean the districts of 24-Parganas, Hooghly and Mymensingh. The ordinary duties of District Magistrates in charge of these districts are numerous and if on the top of those he is regularly to inspect the municipalities, the district boards and other local bodies, it would become almost impossible for him to do so. The result would be, there would be no inspection in the course of a year. That is why Government now propose to re-insert the Subdivisional Officer. I would request the hon'ble members to help me in making this change, because the Subdivisional Officer is a very responsible officer of Government in charge of a subdivision. There is absolutely no reason why he cannot be entrusted with the duty of inspecting the municipality within his jurisdiction. This decentralisation of work is absolutely necessary if the District Magistrates have to do their work without difficulty. It is only on this principle that the Subdivisional Officer is sought to be re-introduced.

Babu SATYENDRA NATH ROY: The Hon'ble Minister has said that the District Magistrate of 24-Parganas may not have enough time to inspect so many municipalities. I know that Mr. Prentice used to inspect all the municipalities, but I am sorry he is not here to-day to corroborate me. I know the District Magistrates have been the chairmen of the district boards and have managed the district boards up till the year 1922. They have been going out on tour in such a heavy district as the 24-Parganas. In the 24-Parganas, we have got an additional District Magistrate and I do not see any reason why the District Magistrate cannot inspect once or twice all the municipalities in the district now that the District Magistrate is relieved of much of his work in connection with the district board and he is helped in his judicial work by the additional Magistrate; I should say the District Magistrate should always inspect all the municipalities in his jurisdiction. It is a question whether the inspection should go down to the lowest officer of Government; it is quite enough if it is done by the District Magistrate. I think it should not go further down.

Mr. NARENDRA KUMAR BASU: I beg to oppose this amendment. If the House will kindly see what these officers are empowered to do, they will find that under sub-clause (*c*) the Commissioner of the division or the District Magistrate may, by order in writing, require the commissioners of such committee to furnish such statements, accounts, reports or copies of documents relating to the proceedings or duties of the commissioners or the committee, as he thinks fit, to call for and record in writing for the consideration of the commissioners or of such committee any observations he thinks proper in regard to the proceedings or duties of the commissioners or the committee. We have been told often and often that one of the objects of this Bill is to minimise interference by the officers of Government in the internal affairs of the municipalities. Now we are told that because there are two big districts in Bengal, *viz.*, Mymensingh and 24-Parganas, of which the District Magistrate, although now relieved of the district board work and all judicial work in order that he may go out on tour, cannot have time to look into the affairs of the municipalities, therefore all Subdivisional Officers should have this right of interference in the work of the municipalities. The Hon'ble Minister has been pleased to tell us that the Subdivisional Officer is a very responsible officer of Government. A Subdivisional Officer, when recruited from the Indian Civil Service, is very often of not much experience—very little more than of two years' service, part of it spent in settlement training. I do not think it is correct to say that Subdivisional Officers are as a rule very responsible officers of Government and if they are not to be given this power, it would in a manner be derogatory to their dignity. I think the less we have of interference of executive officers in the internal

affairs of the municipality, it is bad enough with the Commissioner and the District Magistrate, who have power to interfere in the working of the municipality—the better for the municipality. I should certainly not give the power to the Subdivisional Officers.

Dr. NARESH CHANDRA SEN GUPTA: I am afraid the Hon'ble Minister had not closely inspected the wording of the section, especially the impossibility of the District Magistrate to inspect all the municipalities. The section does not authorise any such thing. As has been pointed out, sub-clause (*a*) gives the District Magistrate power to inspect or cause to be inspected any immovable property used or occupied by the commissioners or any work in progress. So, if the District Magistrate so desires, a Subdivisional Officer can be authorised by order in writing to call for and inspect a book or document in the possession of or under the control of the commissioners or of such committee. He may also by order in writing require the commissioners of such committee to furnish such statements, accounts, reports or copies of documents, relating to the proceedings or duties of the commissioners or the committee, as he thinks fit to call for; and record in writing, for the consideration of the commissioners or of such committee, any observations he thinks proper. It is not a systematic inspection of all the municipalities in his jurisdiction that the District Magistrate is required to carry out. What he is empowered to do is to call for certain things, to examine them if he thinks fit and to make comments on them if he thinks fit. So it would not be necessary for him to inspect all the municipalities or most of the municipalities. I think that if the work is properly conducted, there will be very few occasions on which the District Magistrate will have an occasion to inspect or call for documents. There is no point in the argument that because of the onerous nature of his duties it ought to be delegated to the Subdivisional Officer. What is the point in asking for the Subdivisional Officer's interference in this way? If the Subdivisional Officer's interference is absolutely essential, Government may appoint him a commissioner in every one of the municipalities in his jurisdiction. That will give him all the powers to inspect the municipalities if the Government want that. I do not understand why Government are so anxious to invest the Subdivisional Officer with this power of calling for papers or inspecting certain things which are not very necessary. He is not in a position apart from the authority of the District Magistrate to offer any serious comments. On the other hand, in the hands of a vicious Subdivisional Officer this power may be a source of untold annoyance.

Khan Bahadur Maulvi AZIZUL HAQUE: I am afraid I have to oppose the amendment moved by the Hon'ble Minister. It has been

fully explained by the previous speakers that so far as this section is concerned, it enunciates the different duties and as to what extent it is possible for Government officers to interfere or to go into the activities of the municipality concerned. It is quite all right when Government wants the Commissioner of the division or the District Magistrate to inspect or call for records, because these officers take a detached view of the things, but unfortunately the Subdivisional Officer is often mixed up with local affairs.

5-15 p.m.

Sir, as has been pointed out by Mr. Basu, it is quite legitimate that Subdivisional Officers should inspect the municipalities, but that power is there. The Magistrate can delegate his power for the purpose of inspection to a Subdivisional Officer under clause 1, and so far as the other sections are concerned, the Select Committee and the Bill itself definitely say that this power cannot be exercised by any other person except the Commissioner or the Magistrate. Then, Sir, what will be the effect if clauses (*c*) and (*d*) are given effect to by Subdivisional Officers, namely, "by order in writing require the commissioners of such committee to furnish such statements, accounts, reports or copies of documents relating to the proceedings or duties. . . . . ." I submit, Sir, that even now the Subdivisional Officers have no such power.

Babu BENOD BIHARI SARKAR: Yes, they have such power.

Khan Bahadur Maulvi AZIZUL HAQUE: Well, they have never exercised it and as a matter of convention they should not be justified in exercising that power. Mr. N. K. Basu has pointed out what the situation is. He has pointed out, and very rightly pointed out, that our Subdivisional Officers are not always men of experience and many of them after two years' service are called upon to take charge of subdivisions, and it cannot be expected that such junior officers will be able to come to a proper decision in such matters. At the same time I may point out that except the 24-Parganas which has the largest number of municipalities and except Nadia which has got nine municipalities, the other districts have not many municipalities. (A VOICE: There are many municipalities in the Hooghly district.) I do not think there the mill authorities will permit the Subdivisional Officers to interfere in the affairs of the municipality. In any case, Sir, this clause has been deliberately put in with a view to making it possible for officers of the rank of District Magistrate and above to inspect municipalities and at the same time making it possible for subordinate officers also to inspect under delegated power.

Mr. H. P. V. TOWNEND: Sir, it is in a way amusing to notice that the members of this House are rather more generous in their attitude to the higher officials like the Government, the Commissioner and the District Magistrate, than to the subordinate officers. They speak as if the subordinates were formidable. Even if they were, they are not being given any powers. A Subdivisional Officer is only to inspect and to report, for the information of the District Magistrate and the Commissioner. A second amusing thing, if I am entitled to say so, is that the members' criticisms of this proposal are mostly based on imagination. Dr. Sen Gupta's comments in particular show that he has not the least idea how an inspection is done. He has read out the clauses about inspection and made the comment on each that it does not involve much work. I should like to see what he would say about a clause authorising an audit and giving powers to conduct it. It would merely lay down that an auditor may examine books and may check figures. That to Dr. Sen Gupta would, I suppose, seem a very simple thing: one man could easily manage it, in any office: no assistants would be needed—for the work described would be so simple. This is a fair deduction from what Dr. Sen Gupta says of inspections: and it is just as sensible. There are four sub-clauses describing what can be done as regards inspection: they are short: but you cannot, therefore, say that the work is nothing or is easy. When you go to inspect a municipality, you do not merely go into the office, sit down and gaze upon the face of the chairman. You go to see what is being done, and, in order to see what is being done, you inspect the books: and you must have power to insist on being shown the books before you can inspect them.

(A VOICE: There is no provision for the inspection of municipalities in this Bill.)

That remark proves what I said: the members do not understand the section. May I read out the clauses? Clause (*a*) says "inspect or cause to be inspected any immovable property. . . . . ." That does not mean that you can take a look at the outside of the municipal office! It means, in other words, that it may be necessary to inspect the outdoor work of the municipality—to inspect the way in which they look after the sanitation of the town, the way in which they look after the drains and the latrines. That is a task which I have done myself: and it is no joke, as some members seem to think it. I have been in to inspect places where a doctor refused to go, where one could hear the hissing of the maggots which swarmed in the filth, where no one had done any cleaning for years. Mr. Roy says "trenching grounds!" yes, one inspects trenching grounds also: and that too is not a pleasant task,—but all these things have to be inspected. Unless these things are inspected, they are not kept properly, and unless the municipal officers know that these things may be inspected, they may

not do their work properly. Government officers do not inspect for the pleasure of it or because they like exercising a power: they do it because they are under orders and have to do it, for the good working of municipalities.

The next clause is "by order in writing call for and inspect a book or document. . . . . ." This refers to inspection of the office. It does not mean that you look at one book or one document: you may look through all of them. Next there is a reference to calling for statements: that is clause (*c*). The books and documents which one examines under clause (*b*) may not be complete or may not be clear. They require explanation. Then you call for statements and so on. After that when you have finished your work and have formed some ideas on the facts, you write them down. There is no use in inspecting unless you make some remarks on the results. That is in clause (*d*). These remarks may possibly be of some use to the commissioners.

There is nothing to be afraid of in these things. There is no question of "interference" with the working of municipalities. Only comments will be made on them. That is not derogatory, as some member called it. There is no risk of improper comment. The inspecting officers are Government officers: if they make improper comments, I may say for the information of the House, they can be reprimanded. I myself was once reprimanded for remarks in an inspection note—not in connection with a municipal inspection, but in connection with another inspection when I was a Subdivisional Officer. And, I may say, I never had to have another reprimand for that sort of thing. An officer does not invite reprimand twice.

This work can be done by Subdivisional Officers and it is done by them now. There is no provision in this Act, in this Bill, that I know of, by which the Magistrate can delegate his powers [Khan Bahadur AZIZUL HAQUE: "Sub-clause (*a*)—the words 'cause to be inspected'."] That refers only to outdoor work: the objections to which I refer are to comments on the working of the municipality. If we do not put in this amendment, the Subdivisional Officer cannot inspect.

One of the hon'ble members said that there is no need to inspect the municipalities, because they are going to work very well. Sir, in discussing clause after clause of this Bill the general complaint has been that the municipal commissioners may do this and that and that the ratepayers must be protected. To say that these municipalities will not require to be inspected (some of them may not) is to beg the question. How are we to know that things are going on well, in the future, unless we look at the facts? How can we know that an inspection is not necessary unless we do inspect? You cannot say that there is no need to inspect simply because everything looks nice and looks well from outside.

Maulvi ABDUS SAMAD: Sir, on principle I am always against the exercising of control by officials over the local bodies but I think the amendment of the Hon'ble Minister will be most helpful in the case of municipalities. Municipalities are always negligent in the matter of repairing roads and in other respects, and some power over their action will have a wholesome effect on them and they will always take care to see that the roads are properly kept. If that power is taken away from the Subdivisional Officers, it will lead to bad work in the municipalities.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then put and a division taken with the following result:—

AYES.

Armstrong, Mr. W. L.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Blandy, Mr. E. N.
Chaudhuri, Khan Bahadur Maulvi Nafizur Rahman.
Chowdhury, Maulvi Abdul Ghani.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Eusufji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Faweus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Hakim, Maulvi Abdul.
Henderson, Mr. A. G. R.
Hodge, Mr. J. D. V.
Hossain, Maulvi Muhammad.
Khan, Maulvi Amin-uz-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Leeson, Mr. C. W.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Mullick, Mr. Mukunda Behary.
Nag, Reverend S. A.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Rahman, Maulvi Azizur.
Rahman, Mr. A. F. M. Abdur.
Reid, the Hon'ble Mr. R. N.
Ray, Mr. Satleswar Singh.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Samad, Maulvi Abdus.
Sarkar, Babu Saced Bihari.
Sarker, Rai Sahib Rebati Mahan.
Sen, Mr. S. R.
Sen, Mr. Girja Chandra.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Hassan.
Ali, Maulvi Syd Mansher.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. S. C.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Khan Bahadur Maulvi Ahmuzzaman.
Chaudhuri, Maulvi Syed Osman Haider.
Choudhury, Maulvi Nurul Absar.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Guha, Babu Profulla Kumar.
Haque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Kasem, Maulvi Abul.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Muk[illegible] Rai Sahib Saroj Chandra.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nag, Babu Annadaprasad.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.

Bagchi, Babu Haseni.
Roy, Babu Haribansa.
Roy, Babu Satyendra Nath.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul [illegible]h Chandra.
Sinha, Raja Bahadur [illegible]Kamid. Narayan,
of Nashipur.
Suhrawardy, Mr. H. S.

The Ayes being 49 and the Noes 42, the motion was carried.

Mr. PRESIDENT: The question is that clause 530, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clauses 531 and 532.

Mr. PRESIDENT: The question is that clauses 531 and 532 stand part of the Bill.

The motion was put and agreed to.

Clause 533.

Mr. PRESIDENT: The question is that clause 533 stand part of the Bill.

Maulvi HASSAN ALI: May I with your permission move this amendment as well as amendments relating to clauses 534, 535, 536, 537, 538 and 539 as they are more or less analogous? Of course I will make only one speech on them.

Mr. PRESIDENT: That introduces complication. You had better move your first motion only. You may make your speech on this and move the other motions formally when they are called.

Maulvi HASSAN ALI: I move that clause 533 be omitted. This clause and other clauses—534 to 539—are more or less analogous. Under this clause very drastic powers have been placed in the hands of the Local Government. All the powers that have been given by the previous clauses of the Bill to the commissioners are now proposed to be taken away and to be placed in the hands of the Local Government by these 7 clauses. It seems to me strange that the Select Committee have seen their way to give room to these clauses under the Bill. To my mind, Sir, such provisions in the Bill may, in fact, be called vetoing powers of Government—vetoing any and every action of the municipal commissioners. While certain powers are proposed to be given to the commissioners, abundant provision has also been made in these clauses

for the watchful eye of Government to be always over these municipalities. I say, Sir, no advance in Local Self-Government is possible with such provisions of control and supersession. The District Magistrate is made the sole judge when a question arises between him and the municipal commissioners as to whether a certain thing should be done or not. The power retained by the Local Government to rescind or modify the orders of the District Magistrate is merely illusory. These provisions are absolutely undemocratic. Sir, we are crying for self-rule in place of bureaucratic rule. I, therefore, suggest that these clauses should be omitted from this Bill.

Mr. H. S. SUHRAWARDY: I oppose the amendment, Sir. It has rarely been our good fortune to come across a Minister who is more diffident of exercising his powers than the present Minister in charge of Local Self-Government, or a Government which is more chary of asking powers for itself than the present Government. In my opinion, the powers which the Government have reserved to themselves are far from numerous or undesirable. On this subject, I could make a long and convincing speech illustrated by facts, figures and incidents, which would make it imperative on every government to reserve to itself powers of supervision as well as of supersession. But I reserve that for a future occasion if necessary. For the present I oppose the motion.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. This is a very necessary provision. The hon'ble mover has a peculiar notion of democracy which is his own and I hope is not shared by any other member of this House. I would only draw the attention of the House to the wording of the Bill clause—

533. (*1*) The Local Government may by order in writing annul any proceeding which it considers not to be in conformity with law and with the rules in force thereunder and may do all things necessary to secure such conformity.

This is the first sub-section. The second sub-section runs thus—

(*2*) The Commissioner of the Division or the District Magistrate may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of the commissioners, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of, or under cover of, this Act or any rule or by-law made thereunder, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace,.....etc., etc.

I think, Sir, no Government can function without such powers. If there is going to be a serious breach of the peace by virtue of the commissioners of a municipality trying to enforce a resolution passed by

them, it should be the clear duty of Government or of Government officers to intervene and prevent it, or if they want to execute any resolution which they are not entitled to do, being illegal, I think it is incumbent on the Local Government or their agents to come forward and prevent them from doing so. So, that justification is there in describing this clause as taking away powers which have been given to local bodies? Sir, no power is being taken away, but power is only being reserved to Government to prevent mischief. I oppose the motion.

The motion of Maulvi Hassan Ali was put and lost.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 533 (*1*), in line 1, after the words "Local Government" the following be inserted, namely:—

"acting on the advice of the Advocate-General previously obtained".

It would be noticed that the Local Government have been given very drastic, very far-reaching powers; for instance, the Local Government may by order in writing annul any proceeding which it considers not to be in conformity with law and with the rules in force thereunder and may do all things necessary to secure such conformity. I have not the slighest objection to the Local Government reserving this power to itself in order to prevent the municipalities doing something illegal or to compel them to do things necessary to secure conformity with the law. There is not the slightest objection to that so long as one is assured that what is sought to be prevented is really against the law or what is sought to be enforced is really what is in conformity with the law.

Sir, I do not want that the hands of the Local Government should be fettered by litigation or that the Government should be required to apply for mandatory injunction from some court to enforce the duties on the municipality. But all that I want is that the Government must be satisfied by the highest legal opinion at their disposal as to what they are going to do is really something which ought to be done in conformity with the law. I do not think that there can be serious objection, because the Local Government Ministry may not always be presided over, as it is for the time being, by a lawyer and a lawyer who knows the law apparently very well, and amongst his legal advisers in the Secretariat legal knowledge may not always be at a premium. All that I want is that he must get legal advice from the highest legal adviser of Government, namely, the Advocate-General.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, Government appreciate very much the intention of the mover to see that the Local Government is not misled; at the same time I can assure him that the Local Government seldom takes any such step as is contemplated by

this clause without proper legal advice, it may be of the Advocate-General or of the Legal Remembrancer. I think in this matter discretion should be left to the Local Government as they are not expected to act lightheartedly and they do not, as a matter of fact, act lightheartedly in such matters.

The motion of Dr. Naresh Chandra Sen Gupta was then put and lost.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I beg to move that in clause 533 (*1*), in line 1, after the word "writing" the words "after considering the report of the municipality concerned in regard to the particular proceeding in question" be inserted.

It is quite clear that my intention is to give the municipality an opportunity of being heard before it is suspended under section 533. I think it is only proper that before action is taken under this clause the municipality concerned should be given an opportunity to give an explanation and after consideration of that explanation the action contemplated under this clause may be taken. I do not find any objection to that, because Government will have the report and along with that what the municipality may have to say in its behalf, and I do not think this procedure should take a very long time. If the Government accuses a municipality and has to take action only after an explanation is obtained a little more time may be necessary, but that certainly will not set the house on fire.

I also beg to move that in clause 533 (*1*), in line 4, for the words "all things necessary" the words "such things as may be praticable" be substituted.

Government might pass an order and suspend the municipality and might ask it to put the proceedings in conformity with law. But it might not always be possible to carry that out. There may be instances in which things objected to might have been carried out before they came to the notice of the Government. In such cases "to see that all things necessary are done" seem to be ridiculous. What I am suggesting is "such things as will be practicable" be substituted. So far as I can see, the effect will practically be the same, but instead of asking an impossible thing to be done, we might ask them to do what may be practicable. This induced me to bring the amendment before the House. I hope that the Hon'ble Minister will be able to accept this.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, with regard to the first amendment of Rai Bahadur, I may point out that it is not a question of fact on which the municipality might be given a hearing. I would draw his attention to the wording of the clause "the Local Government may by order in writing annul any proceeding which it considers not to be in conformity with law and with the rules in force

thereunder and may do all things necessary to secure such conformity". So, if anything is illegal or not in conformity with the rules of this Act, this contemplated hearing or anything done under this Act is just illegal; so no question of fact arises. Whether an act is legal or illegal, it is for the legal advisers to advise and it is not a question on which the views of the municipality should be ascertained.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I would ask leave of the House to withdraw this amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I am surprised to find that medical men like my friend, Dr. Dutt, should change his opinion so hurriedly. Perhaps the Hon'ble Minister knows that lawyers are persons who differ in their opinions as much as medical men and it might be possible that legal officers might hold different views. I think, therefore, that it will be better for the Hon'ble Minister to put some words to the effect that the municipalities will not be taken by surprise.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am sorry that my friend Khan Bahadur should have intervened at this stage. I think he knows from his own personal experience being connected with public bodies that they are never taken to task without being given a hearing. The point is whether it is legal or not, and it is not a question of fact on which the opinion of the municipalities need be taken; so that question does not arise. Rai Bahadur has asked for leave to withdraw his amendment.

As regards the second amendment, as far as it is practicable—"practicable" under whose opinion? My friend knows very well from his long experience of local bodies how they can evade the law, or they can evade their duties if they want to do so. So it is not proper for the legislature to leave a lacuna in the Act which would give further opportunities to these local bodies to avoid the law. The local bodies nowa-days are not very submissive as my friend knows himself. The Local Government may be expected to approach this question dispassionately as they are not partisans. Government have got numerous local bodies under them and they do not place themselves on the same level with them.

The following motion was then, by leave of the Council, withdrawn:—

"That in clause 533 (*1*), in line 1, after the word 'writing' the words 'after considering the report of the municipality concerned in regard to the particular proceeding in question' be inserted."

The following motion was put and lost:—

"That in clause 533 (*1*), in line 4, for the words 'all things necessary' the words 'such things as may be practicable' be substituted."

Mr. H. S. SUHRAWARDY: Sir, I beg to move that to clause 533 (*1*) the following be added, namely:—

"or may suspend any resolution which it considers likely to lead to a serious breach of the peace, or to cause serious injury, annoyance, inconvenience or harassment to the public, or to any class or body of persons".

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I intervene at this stage and say that Government are prepared to accept this amendment subject to the following change which I hope my friend would accept? The change I suggest is that the word "or" be inserted between the words "injury" and "annoyance" and the words "inconvenience or harassment" be omitted.

Mr. H. S. SUHRAWARDY: Sir, I am prepared to accept the change proposed so long as it is understood that "annoyance" includes "harassment and inconvenience".

The following amended motion was then put and agreed to:—

"That to clause 533 (*1*) the following be added, namely:—

'or may suspend any resolution which it considers likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public, or to any class or body of persons'."

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that after clause 533 (*2*) the following be inserted, namely:—

"(*2a*) Any order passed under sub-section (*2*) shall not remain in force after two months from the date of the making of the order."

The clause says the Commissioner of the Division or the District Magistrate may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of the commissioners or prohibit the doing within those limits of any act which is about to be done or is being done in pursuance of, or under cover of, this Act or any rule or by-law made, thereunder, if in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order or the doing of the act is likely to lead to a serious breach of the peace or to cause serious injury or annoyance to the public or to any class or body of persons.

So it is a temporary order which the District Magistrate will make in the interest of public peace to prevent serious injury or annoyance to the public. It is an emergency order and an emergency order of this sort should not be allowed to last indefinitely. As the clause now stands, the Local Government may take its own time in passing orders and till then the order remains in force. Perhaps at the end of six months the Local Government may rescind the order. In the meantime things in the municipality may have become impossible. I would not have troubled the House to bring this amendment if I had not some experience of the delay which takes place in such matters. Government takes its own time unless a thing is marked "specially urgent". Even I have been a Government officer in a responsible charge and I know from experience how slow the Government may be. For example, I asked sometime in June a grant of Rs. 250 for a trivial thing and it took Government exactly nine months to decide in March that I should have only Rs. 150 and nothing more. I do not want to interfere with the scheme of the section: I want to fix only the time-limit. An emergency order under section 144, Criminal Procedure Code, can be passed when there is any likelihood of the breach of the peace and that order does not last beyond two months. At the same time what I suggest is that a time-limit of two months should be fixed. Even then if it is suggested that two months may be a short time for Government to decide if there is any emergency or serious injury or annoyance; at the end of that two months if the state of things continues, there is nothing to prevent the Commissioner or the District Magistrate to take necessary action by a fresh order. I hope, therefore, that the Hon'ble Minister will see his way to accept this amendment.

6 p.m.

Mr. H. P. V. TOWNEND: Sir, the chief reason for this amendment being moved is that Dr. Sen Gupta has had experience of delay on the part of Government, and his illustration is that Government delayed for nine months in giving him a grant. Well, the two things are not exactly the same. A grant to a municipality, such as Dr. Sen Gupta mentions and was fortunate enough to get, is not likely to be a source of "serious injury, annoyance or harassment" to anybody. And, Sir, if Government did delay in such a matter, no one has suffered except Dr. Sen Gupta, who seems to have come very well out of this delay, because after all he did get a grant. But surely in these matters under sub-clause (*2*) it is not necessary that we must fix a period now, during which the order will be in force, binding on Government. It may be necessary to delay. There is much merit in delaying, when there is any question of a breach of the peace or annoyance to the public, etc., as laid down in this clause. If it is a case in which there is no probability of any harm being done by a quick modification of the order, the

Commissioner of the Division or the District Magistrate can fix a time-limit under the clause as it stands. If, on the other hand, there is no reason for cancelling the order after two months, why should it be necessary to go to the trouble of passing another order, especially when, as Dr. Sen Gupta has pointed out, there may be a delay and it may be too late for a second order to be passed in time——

Dr. NARESH CHANDRA SEN GUPTA: May I explain that what I said was that the delay may be so great that when Government rescinds the order, the thing which the municipality wanted to do may become impossible?

Mr. H. P. V. TOWNEND: I did not misinterpret Dr. Sen Gupta, Sir: I am drawing conclusions from the argument that he used. He said that Government departments always delayed: if this is true, they might delay in taking action to renew an order under this clause, just as probably as in taking action to rescind it. He says, "because Government takes so long to make up its mind in these things, let them make up their minds within two months." But if they cannot make up their minds to deal promptly with one aspect of these things, they may also delay in dealing with another aspect. However, Sir, these are only so many ways of saying that there is no necessity for this amendment and that Government must be left to use its own discretion.

The motion of Dr. Naresh Chandra Sen Gupta was then put and lost.

Mr. PRESIDENT: The question is that clause 533, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clauses 534 and 535.

Mr. PRESIDENT: The question is that clauses 534 and 535 stand part of the Bill.

The motion was put and agreed to.

Clause 536.

Mr. PRESIDENT: The question is that clause 536 stand part of the Bill.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that for clause 536 the following be substituted, namely:—

"536. If the expense is not paid under sub-section (2) of section 534 or under sub-section (3) of section 535 the District Magistrate with the previous sanction of the Local Government may realise the amount from the municipality as a public demand."

What is contemplated under section 536 is that "the District Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the municipal fund to pay the expense or so much thereof as is from time to time payable from the balance in priority to any other charges against the same, and such person shall pay accordingly". Something has been done by the District Magistrate which ought to have been done by the municipality under section 535 and the cost of it has to be recovered. But why not under the ordinary procedure of a certificate? It is much easier and much simpler. This novel procedure of calling upon persons to pay the expense would involve complications. Suppose a person does not pay—what is the remedy? The District Magistrate may pass order to pay, but he does not pay; then Government has got to realise it as a public demand. Why not realise it as a public demand at the start?

Babu BENOD BIHARI SARKAR: I beg to oppose this amendment. The mover has probably not much idea as to how difficult it is to recover under the Public Demands Recovery Act. The clause in this Bill is more effective and there is no reason why this clause should be changed into that suggested by Dr. Sen Gupta which would make it necessary for the District Magistrate to realise the dues by the certificate procedure. It is very difficult to do so; therefore, I oppose this amendment.

The motion of Dr. Naresh Chandra Sen Gupta was put and lost.

Clauses 536 and 537.

Mr. PRESIDENT: The question is that clauses 536 and 537 stand part of the Bill.

The motion was put and agreed to.

Clause 538.

Mr. PRESIDENT: The question is that clause 538 stand part of the Bill.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 538, proviso, in line 4, the word "ordinarily" be omitted.

It makes the whole thing meaningless. The proviso says that "except in case of misappropriation of municipal funds or persistent default in the performance of duties by the commissioners,"—except in those cases,—"the Local Government shall not *ordinarily* exercise power under this section until action has been taken under section 537."

Clause 538 gives the Local Government power to supersede a municipality and the idea of this proviso is that it should not be exercised until action has been taken under section 537 except in two cases. I

am quite prepared to accept these exceptions, and in those particular cases the power may be exercised before action is taken under section 537. But, in other cases, why should it be further qualified by the word "ordinarily"? If you add "ordinarily", then it is useless to have the clause. It leaves it entirely to the discretion of the Local Government whether to act under section 535 or 537. If you are going to lay down the rule by legislation, the word "ordinarily" ought not to be there.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. I may point out that this proviso is the result of the collective wisdom of the members of the Select Committee. Every word of it was weighed and analysed before it was inserted in the Bill. So, it will be very risky, I am afraid, to accept an amendment on the floor of the House, even at the instance of my esteemed friend Dr. Sen Gupta. The word "ordinarily" was purposely put in, because there may be occasions when, apart from those exceptions mentioned in the proviso, it might be necessary for Government to exercise power under this clause. It is not possible to exhaust all those exceptions. Such emergencies and contingencies might arise which cannot be foreseen, and it is only to meet such contingencies that this word "ordinarily" was put in almost unanimously. I say "almost", because I do not exactly remember whether any member dissented or not, but I think it was the decision of the Select Committee after very careful and serious consideration. On these grounds, Sir, I oppose this amendment.

The motion of Dr. Naresh Chandra Sen Gupta was put and lost.

Mr. PRESIDENT: The question is that clause 538 stand part of the Bill.

The motion was put and agreed to.

Clause 539.

Mr. PRESIDENT: The question is that clause 539 stand part of the Bill.

Maulvi SYED MAJID BAKSH: Shall I move amendment No. 1918 only or both amendments 1918 and 1920?

Mr. PRESIDENT: You may move both the amendments together.

Maulvi SYED MAJID BAKSH: I beg to move that clause 539 (2) (iii)" be omitted.

I also move that in the proviso to clause 539 (*2*) (*iii*), in line 3, the word "either" and, in line 4, the words and brackets "or clause (*iii*)" be omitted.

Sir, my intention in moving this amendment is this. After a municipality has been suspended, the Local Government may reconstitute the commissioners of the municipality by a fresh election and fresh appointment and the persons who vacated their offices under clause (*a*) of sub-section (*1*) shall not be deemed disqualified for election or appointment. My intention is that if the Local Government notifies a fresh election and reconstitutes the commissioners of the municipality by a fresh election and appointment, sub-clause (*ii*) empowers the Local Government to reconstitute the commissioners of the municipality by appointment only for such period as it may consider necessary. This I want to delete because all that I want is that after the expiration of the period of supersession, Government should order a fresh election and fresh appointment.

6-15 p.m.

I do not wish that the Local Government should, after the expiry of the period of supersession, again go on reconstituting the commissioners of the municipality by appointment only. I take it that this power of supersession is an extraordinary power by itself and should only be exercised under extraordinary circumstances. We should not empower the Local Government to continue in a way that the act of supersession can be continued by appointment of the commissioners of the municipality. There is a consequential amendment. I have provided a proviso to the effect that sub-clause (*iii*) should be omitted; only sub-clause (*ii*) will remain after the supersession has been made and the municipality which has passed through this purgatorial period should be again reconstituted by fresh election. The municipality should not again be continued by the appointment of commissioners presupposing exceptional circumstances like this. The Local Government is giving enlarged powers to the municipalities and this power of supersession has been restricted and the power of supersession should be exercised very carefully.

Such being the case it is incompatible with the idea that after the period of supersession is over, the commissioners of the municipality should be made by appointment. This is in conflict with the idea underlying the whole Bill as this power is taken away by Government and if Government think that the period of supersession has already passed, then the Local Government will, as in the nature of things, allow the municipality to reconstitute itself through general election and the power of appointment should not be taken in order to prolong the period of supersession by the underhand way of nomination and appointment which will be incompatible with the idea.

Mr. NARENDRA KUMAR BASAU: I rise to support this amendment. It seems to me that by this clause Government is really taking power to extend and enhance the punishment. Power under section 538 to supersede a municipality is a very drastic power; of that there is no doubt. Section 539 says: When an order of supersession has been passed under section 538, all the commissioners shall, as from the date of the order, vacate their offices as such commissioners. That is the first sub-clause. Then under the second sub-clause the Local Government may, on the expiration of the period of supersession specified in the order, extend the period of supersession for such further terms as it may consider necessary. That is to say, when the municipality has paid its full penalty for its default or its neglect of duty, the Local Government may extend the period of supersession or reconstitute the commissioners by a fresh general election or reconstitute the commissioners by appointment only. That is an additional punishment after the supersession is over. Government is taking the power to inflict an additional punishment, which is to nominate all the commissioners of a municipality; instead of dissolving the municipality, the Government is taking upon itself the power to nominate all the commissioners if there is misconduct or something else which may lead Government to supersede the municipality. It is an additional punishment that instead of having the commissioners by a general election Government renominates the men who were responsible for the mismanagement as commissioners. I do not think it is either just or fair.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I do not agree with the hon'ble mover of the amendment or his supporter. No attempt has been made in this clause to extend the power of Government. The position is this: the Government will either have to extend the period of supersession or to dissolve the municipalities and allow re-election.

Mr. NARENDRA KUMAR BASU: No, no; the sub-clauses (*i*) and (*ii*) are there; you can extend your period of supersession.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The two sub-sections say: "The Local Government may extend the period of supersession for such further term as it may consider necessary, or reconstitute the commissioners of the municipality by a fresh general election and fresh appointment and the persons who vacated their offices under clause (*a*) of sub-section (*1*) shall not be deemed disqualified for election or appointment."

Mr. NARENDRA KUMAR BASU: We accept that; but what happens?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The reconstitution of the commissioners of the municipality will be by appointment only for such period as it may consider necessary and the persons who vacated their offices under clause (*a*) of sub-section (*1*) shall not be deemed disqualified for election. That is a half way between the two. The commissioners may be reconstituted by dissolving the municipality or Government may extend the period of supersession or may reconstitute by nomination. These are the three provisions which are contemplated in this section. I may remind the hon'ble member that this was put in by the Select Committee after a very careful consideration; there is no use trying to change it on the floor of the House. The Government is in no way responsible—when an individual member of the Select Committee gives the suggestion—the responsibility was practically shared by the members of the Select Committee and Government's share is no larger. That is exactly the case. It is no attempt at all on the part of Government to extend their power of supersession over a municipality. It is only to provide for a case between the two, *i.e.*, either to extend the period of supersession or to dissolve the municipality. But supposing it is not desirable to extend the period of supersession or to dissolve it, then the Government will reconstitute the municipality by nomination. Certainly reconstitution by nomination is better than supersession. My friends fight shy of nomination merely because the word "appointment" is used, but it is much better than supersession.

Khan Bahadur Maulvi AZIZUL HAQUE: My friend Mr. Narendra Kumar Basu knows the reason why this section was put in by the Select Committee.

Mr. NARENDRA KUMAR BASU: I was not there.

Khan Bahadur Maulvi AZIZUL HAQUE: I am helpless if my friend always excuses himself by saying "I was not there."

Mr. NARENDRA KUMAR BASU: I came down to Calcutta for one day.

Khan Bahadur Maulvi AZIZUL HAQUE: Yes, I remember he came down to Calcutta for a day in connection with a case.

We were faced in the Select Committee with the problem of deciding what, after the period of supersession, will be the power of the Local Government. We had the alternative that either Government will continue supersession or they must re-establish the commissioners. Then the alternative was found, as has been appointed out by the

Hon'ble Minister, that it would be possible not to take that drastic step of superseding a municipality continually but to reconstitute it by nomination. The third alternative was that the reasons for supersession should be recorded in writing and why the commissioners shall not be established. Instead of that we put in this alternative. This is one of the clauses which were thoroughly discussed as has been pointed out by the Hon'ble Minister. We are quite prepared to accept the position that it might be necessary to supersede a municipality in extreme cases. I believe in the new condition of things there would be no supersession of a municipality unless there are very strong grounds for doing so. That being so, Government should not be divested of this power of nominating a number of commissioners for settling the affairs of a municipality. The other alternative was to continue the supersession and from that point of view at least I think that the section should stand as it is unless very cogent reasons are shown to the contrary. I, therefore, support the Hon'ble Minister.

Dr. AMULYA RATAN GHOSE: I support the amendment. In supporting the amendment I beg to say that there are provisions by which the Government can supersede a municipality or permit an election a considerable time after a municipality has been superseded. Government reserve the power to extend the period of supersession or in its stead Government propose that some commissioners might be nominated. After the period of supersession or, say, after a body of commissioners is dissolved and then re-election takes place, it will be hardly necessary for the Government to extend the term of supersession or again dissolve the elected commissioners and nominate commissioners in their places. It will be a great injustice to the municipalities and to the ratepayers if after supersession the Government stick to nominations of commissioners and carry out the administration of the municipality by all nominated commissioners. Sir, that will not be helping the cause of democracy; that will be a retrograde measure if that thing is pursued all the time. If one election is not satisfactory to Government, there should be a second election or third election, but there should not be at all supersession or nomination of commissioners. For all the time it cannot be expected that the Government will be displeased with those who may be elected.

The motions of Maulvi Syed Majid Baksh were then put and lost.

Mr. PRESIDENT: The question is that clause 539 stand part of the Bill.

The motion was put and agreed to.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that after clause 539 the following be inserted, namely:—

"539A. (*1*) No action shall be taken by the Local Government under sub-section (*3*) of section 533, sections 534, 535, 537 or section 538 until notice has been served upon the chairman and the commissioners specifying the grounds upon which such action is proposed to be taken, to show cause within a specified time not less than one month from the date of the notice, why such action shall not be taken.

(*2*) Where the commissioners have shown cause under the last foregoing sub-section and have disputed any of the facts stated in the notice or raised any question of law no action shall be taken by the Local Government except upon a finding by a committee constituted under sub-section (*3*) that circumstances exist which would authorize the Local Government to take the proposed action.

(*3*) The committee shall be appointed by the Local Government and shall consist of—

(*1*) one judicial officer not below the rank of a subordinate judge;

(*2*) one chairman of a municipality;

(*3*) the Secretary to the Local Government in the Local Self-Government Department.

(*4*) The committee shall inquire into the facts alleged on the spot and take such evidence as may be adduced by the Local Government and the municipality and report their findings on questions of fact and law arising in the case in accordance with the opinion of the majority."

I should draw the attention of the members to the details of this clause. The hon'ble members have seen that under sub-clause (*3*) of section 533, sections 534, 535, 537 and 538, some drastic powers have been given to the Government. Under section 533 (*3*) Government may make an emergency order passed by the Magistrate permanent, so that it may prevent the commissioners from doing something or giving effect to a resolution which they have passed.

6-30 *p.m.*

Under section 534 Government may compel the performance by the municipality of certain things which are considered to be its duty to perform. Under section 535 Government can take charge of any department of a municipality and appoint an officer to carry on the department. Under section 537 Government can dissolve the body of commissioners and order a fresh election, and under section 538 a municipality may be suspended. What I suggest in this clause is that none of these things should be done until the municipality concerned

has been served with a notice specifying the grounds upon which such action is proposed to be taken and asking to show cause within the specified time of not less than one month from the date of the notice why such action shall not be taken. Then in showing cause if the commissioners dispute any of the facts stated in the notice or raise any question of law, the Local Government should not take action forthwith, but should wait until the objections raised by the commissioners have been investigated as suggested in my amendment. The House will notice the constitution of the committee I have suggested. I have suggested an impartial committee which will consist of one judicial officer not below the rank of a Subordinate Judge, one chairman of a municipality and the Secretary of the Local Government in the Local Self-Government Department. The Local Government should not take action until this committee has arrived at a finding and reported that sufficient circumstances exist which will justify action being taken by the Local Government. I hope that the Hon'ble Minister and his advisers will give a close consideration to the provision of this clause and try, if possible, to judge it on its merits without looking at the face of the mover of the amendment. It is an elementary principle of law—unless the Hon'ble Minister is too much afraid of the word "law"—it is the elementary principle of law that no order would be legal and that no penal order should be passed against a person, unless and until, at any rate, he has been heard.

Sir, the municipality should be given an opportunity of showing that there is no justification for Government to take the action contemplated by Government. In doing so they may raise not only the question of law but also the question of facts. The Hon'ble Minister is greatly mistaken if he thinks that under section 533 no question of law is involved and only questions of facts have to be decided. When the facts come before Government, Government will have to investigate into them. It cannot summarily reject them and accept the report which they may have received from the local officers, without investigation. The facts will have to be investigated and I suggest a machinery for the purpose which is expected not to delay matters but to act with promptness, because I have provided that the committee shall inquire into the facts alleged on the spot and take evidence and report their findings on the questions of facts arrived at by a majority. I do not tie them down by rules of procedure, and if they come to a finding by a majority—and that majority may consist of the judicial officer and the Secretary to Government in the Local Self-Government Department—provided, of course, they have the facts and evidence placed before them, that finding may be accepted by Government. This majority may be trusted even by Government to arrive at an impartial decision as to whether the municipality has actually incurred

liability to the actions proposed to be taken by Government. If the findings are against the municipality, the Government will take action and if they are in favour of the municipality, Government will not take action. My amendment is very fair and I hope the Hon'ble Minister will see his way to accepting it—at any rate—as he has often done before, even by suggesting certain verbal alterations.

[At 6-35 p.m. the Council was adjourned for prayer and it reassembled at 6-45 p.m.]

Dr. AMULYA RATAN GHOSE: I beg to support the amendment so ably moved by my friend Dr. Sen Gupta, and I do so because I think that Government ought to give some sort of notice to the people against whom they want to take such drastic action as supersession of the municipality or dissolution of the body of municipal commissioners. I wonder whether it is the same Government which allow even a murderer the right to put forward his defence before a court of law which is now contemplating taking such drastic measures against a body of commissioners who has been elected by the largest number of votes of the ratepayers, by discharging and dissolving them and by superseding the municipality without hearing what they have got to say in their defence. It is a very salutary proposal, a very reasonable proposal, a very just proposal that has been made by Dr. Sen Gupta, and if this is not accepted, I do not know what Government will accept. I appeal to Government to accept this amendment and I hope that the members of this House will pay greater attention to this amendment than to anything else. Otherwise the rights and liberties of the people who constitute a municipality will be done away with if they are summarily removed. With these words, I support the amendment of Dr. Sen Gupta.

Mr. NARENDRA KUMAR BASU: Sir, with your leave I should like to suggest an amendment to the first sub-clause of the proposed new clause. I want to delete the figures 534 and 535 and to add after the word "taken" the words "and without considering such cause." I do not know whether this will commend itself to the Hon'ble Minister. Even though under the less drastic section 535 an opportunity is given to the commissioners to show cause; in the case of much more drastic sections such as 533 (3), 537 and 538, no such opportunity is given. The new section will read thus—

"That after clause 539, the following be inserted, namely:—

'539A. No action shall be taken by the Local Government under sub-section (3) of section 533, section 537 or section 538 until notice has been served upon the chairman and the commissioners specifying

the grounds upon which such action is proposed to be taken, to show cause within a specified time not less than one month from the date of the notice, why such action shall not be taken and without considering such cause.' "

If we stop there and do not add the other clauses, I do not know whether it will be acceptable to the Hon'ble Minister.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, there is no provision of any notice being given when the larger power of supersession or dissolution is exercised by Government on a municipality, and I think it is only fair that there should be some such provision here. Mr. Basu's amendment is quite reasonable and I hope the Hon'ble Minister will accept it. Sir, there is such provision of notice being given prior to the exercise of smaller power and I do not see why there should not be similar provision when exercising large powers such as this.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am afraid, Sir, this is too big a thing to be accepted on the floor of the House, however much I may like to accept Mr. Basu's suggestion. First of all, clause 533 deals with emergency powers. Even if Government wants to make the emergency power permanent, is it necessary to give notice to the municipality? Then, Sir, clauses 537 and 538 deal with dissolution and supersession. Such notice will always be given. It will be written to and Government will not take action against any municipality without consulting it and without previous correspondence. It will not find one morning that Government has decided all on a sudden to dissolve or supersede it. There will be long and protracted correspondence before such action is taken. The difficulty of accepting this is that it may not be possible to prove sometimes what Government actually finds; that means wrangling with the local bodies before action is taken. I would rather accept the clause as it is and not accept the amendment on the floor of the House. If the members had asked me half an hour ago, I could have considered this. It is an important provision and I would stick to this.

Mr. PRESIDENT: What about the other clauses?

Dr. NARESH CHANDRA SEN GUPTA: If the Hon'ble Minister accepts this clause, we would not press the other clauses.

7 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I would appeal to the hon'ble member not to press for the acceptance of this amendment at this late hour.

Mr. NARENDRA KUMAR BASU: May I ask your permission, Sir, to have this matter postponed to-day and be taken up the first thing to-morrow morning after questions?

Mr. PRESIDENT: I can do so; but, I think its consideration should not be put off unless the Hon'ble Minister wants to postpone the discussion of the matter.

Mr. NARENDRA KUMAR BASU: There are still a great many amendments to go through, Sir.

Khan Bahadur Maulvi AZIZUL HAQUE: The point of my friend Mr. Basu is absolutely a fair one. As the Hon'ble Minister has sent an appeal to us, may we not likewise send an appeal to him that at this last stage he will listen to us? Besides, I do not know what justification there is for turning down this proposal. I know that Government will issue a notice, but what harm is there in having such a provision in the Bill? We all consider that the request of Mr. Basu is a very right and reasonable thing. The municipality should have an opportunity of having its say, and for whatever we know, it may be quite possible that the municipality's letter may not be forwarded by the Collector at all.

Mr. W. H. THOMPSON: I do feel that it is unfair and ungrateful to press the Hon'ble Minister to accept such an amendment as this at this stage of the Bill when the Hon'ble Minister has given every possible consideration to amendments all through the Bill put forward by those who have this point of view. This is a case, Sir, in which a municipality has failed to do its statutory duties and it has been well known for months and months that this is the case. It is time something has to be done and what will be the effect of making a formal notice on the commissioners necessary? The commissioners have already been found to be unreliable and irresponsible people. The suggestion contained in this amendment will mean that any action that Government may wish to take may be held up because one of these people succeeds in avoiding the service of a notice.

The motion of Dr. Naresh Chandra Sen Gupta was then, by leave of the Council, withdrawn.

The motion of Mr. Narendra Kumar Basu was then put and a division taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Syed Nausher.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Guha, Babu Profulla Kumar.
Haque, Khan Bahadur Maulvi Azizul.
Hossain, Maulvi Muhammad.
Khan, Maulvi Yamizuddin.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Mookerjee, Mr. Syamaprosad.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Rahman, Maulvi Azizur.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray, Babu Shanti Shekhareswar.
Ray, Babu Haribansa.
Roy, Babu Satyendra Nath.
Roy, Mr. Sarat Kumar.
Sahana, Babu Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Sen Gupta, Dr. Naresh Chandra.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES.

Armstrong, Mr. W. L.
Bal, Babu Lalit Kumar.
Blandy, Mr. E. N.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Faweus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Henderson, Mr. A. C. R.
Hodge, Mr. J. D. V.
Kasem, Maulvi Abul.
Khan, Maulvi Amin-uz-Zaman.
Khan, Mr. Razaur Rahman.
Leeson, Mr. C. W.
Mitter, the Hon'ble Sir Provash Chunde
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Ray, Babu Amulyadhan.
Reid, the Hon'ble Mr. R. N.
Ray, Mr. Saileswar Singh.
Roy, the Hon'ble Mr. Bijay Prasad Singh.
Sarkar, Babu Saned Behari.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. S. R.
Stapleton, Mr. H. E.
Thampson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 32 and the Noes 34, the motion was lost.

Clauses 540 to 542.

Mr. PRESIDENT: The question is that clauses 540, 541 and 542 stand part of the Bill.

The motion was put and agreed to.

New clause 543.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that after clause 542 the following be inserted, namely:—

Construction of references to Ben. Act III of 1884.

"543. In every enactment in force at the commencement of this Act, unless a different intention appears, all references to any chapter or section of the Bengal Municipal Act, 1884, shall, so far as is possible, be construed as references to this Act or to its corresponding chapter or section."

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I oppose the amendment, Sir.

The motion of Dr. Naresh Chandra Sen Gupta was put and lost.

Schedule I.

Mr. PRESIDENT: The question is that Schedule I stand part of the Bill.

The motion was put and agreed to.

7-15 p.m.

Schedules II and III.

Mr. PRESIDENT: The question is that Schedules II and III stand part of the Bill.

The motion was put and agreed to.

Schedule IV.

Mr. PRESIDENT: The question is that Schedule IV stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to move that in Schedule IV, in line 3, for the word "annually" the word "half-yearly" be substituted.

The motion was put and agreed to.

Mr. H. P. V. TOWNEND: Sir, I beg to move that in class (*a*), in column 2, of item No. 1, in Schedule IV, before the word and figures "Rs. 10,00,000" the words "more than" be inserted and the words "and upwards" be omitted. At present a man might come under both (*a*) and (*b*): hence the necessity for the amendment.

The motion was put and agreed to.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, may I have your permission to move a short-notice amendment and I understand the Hon'ble Minister is prepared to accept it. It runs:—

"That in Schedule IV, in item No. 2, in the third column for the figures '100', '50' and '25' the figures '50', '25' and '12' respectively, be substituted."

The motion was put and agreed to.

Babu KHETTER MOHAN RAY: Sir, I beg to move that in Schedule IV, in column 2 of item No. 4—

(*i*) in line 1, after the words "commission agent" the word "broker" be inserted, and

(*ii*) in line 3, after the words "legal practitioner" the words "service-holder, in Government or private offices or institutions" be inserted.

Sir, service-holders, in Government or private offices or institutions, are exempted from payment of any municipal tax. I do not know why these people have been exempted when merchants, brokers, mukhtears and pleaders have to pay the tax although they have to pay income-tax as well.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I rise on a point of order, as I submit that the mover cannot bring forward this amendment without the previous sanction of the Governor-General. His amendment affects the rights of a certain class of persons.

Mr. PRESIDENT: Sanction of the Governor-General is not necessary in this case.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am prepared to accept the first part, *viz.*, (*i*) in line 1, after the words "commission agent" the word "broker" be inserted. The latter portion I cannot accept.

The following motion was then put and agreed to:—

"That in Schedule IV, in column 2 of item No. 4, in line 1, after the words 'commission agent', the word 'broker' be inserted."

The following motion was then put and lost:—

"That in Schedule IV, in column 2 of item No. 4, in line 3, after the words 'legal practitioner' the words 'service-holder, in Government or private offices or institutions' be inserted."

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that in Schedule IV, in item 4, in class (*a*), in column 2, in line 2, after the words "in respect of whose" the word "professional" be inserted.

Sir, the reason for my amendment is that the tax should be payable only by persons whose professional income is up to a certain limit. I think that is the rule in the Calcutta Corporation.

Babu BENOD BIHARI SARKAR: Sir, I beg to oppose this amendment. Income-tax is based not only on the professional income but on the whole income of a person.

Mr. NARENDRA KUMAR BASU: Sir, I beg to support the amendment. Perhaps, Mr. Sarkar, who has opposed this amendment on behalf of Government, has not seen that there are classifications made of persons in respect of whom income-tax is payable. The distinction is that the people who make enough money out of their profession to pay income-tax will have to pay at a higher rate. As has been pointed out by Dr. Sen Gupta, the same rule prevails in Calcutta and there is no reason why there should be a distinction between Calcutta and the *mufassal*. In Calcutta for persons who pay income-tax, the rate is Rs. 50 and for others the rate is Rs. 25.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, may I inquire how much a municipality will be able to realise from the Hon'ble Minister who is both a landlord and a lawyer when his income from his *zamindari* Rs. 1,500 a month and his income as a lawyer is Rs. 2,500 a month?

Mr. H. P. V. TOWNEND: Sir, we have no means whatsoever of ascertaining on what part of the income income-tax is paid. We cannot expect that the municipal officers should be allowed to inspect the books of the Income-tax Department. No income-tax officer is allowed to give particulars as to a person's income-tax. It would not suffice even to estimate how much comes from professional income and how much from other sources: because it would be necessary under the wording of the entry to show on how much the income-tax was actually payable. It is impossible to get the actual figures. Government, therefore, oppose the amendment.

Mr. S. M. BOSE: Sir, I beg to oppose this amendment. I do not think Dr. Sen Gupta is right in saying that his amendment is on the lines of the Calcutta Municipal Act. So far as I know, it is not so and I am almost certain about it. Further, I beg to point out that income-ax is one and is not divided into any parts, *viz.*, how much is due on income as capitalist, how much on income as pleader and so on. It is one tax that is assessed as a whole and so I think it is absolutely impossible to say how much is due from one source and how much from another source.

The motion of Dr. Naresh Chandra Sen Gupta was then put and lost.

Khan Bahadur Maulvi AZIZUL HAQUE: May I, with your permission, Sir, move a short-notice amendment which is exactly on the same lines as Nos. 1959 to 1962? It runs as follows:—

"That in Schedule IV, in item No. 4, in column 3, against class (*a*), for the figures '20' the figures '10' be substituted."

I understand, Sir, that the Hon'ble Minister is prepared to accept it.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I accept it, as it will reconcile some mistake that has occurred.

The motion of Khan Bahadur Maulvi Azizul Haque was put and agreed to.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that in Schedule IV, in item 4, against class (*b*), for the figures "10" in column 3 the figure "5" be substituted.

Mr. H. P. V. TOWNEND: Sir, Government is prepared to accept it.

The motion was put and agreed to.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that in column 3 against class (*a*) of item No. 5, in Schedule IV, for the figures "12" the figure "8" be substituted.

Mr. H. P. V. TOWNEND: Sir, Government is prepared to accept this amendment.

The motion was put and agreed to.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that in Schedule IV, against class (*b*), for the figure "4" in column 3, the figure "2" be substituted.

Mr. H. P. V. TOWNEND: Sir, Government accept this amendment.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that Schedule IV, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Schedules V to IX.

Mr. PRESIDENT: The question is that Schedules V to IX stand part of the Bill.

The motion was put and agreed to.

Clause 3.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that after clause 3 (*58*), the following be added, namely:—

> "(*59*) The words 'And shall not be questioned in any court' means 'shall not be questioned in any court except where the inherent statutory rights of the people conferred by section 9 of the Code of Civil Procedure, 1908, and sections 42, 43, 45, 46 and 52 of the Specific Relief Act, 1877, are denied and illegally interfered with'."

Sir, I need not take the time of the Council by making any speech, but commend my amendment to the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I oppose the amendment.

The motion of Dr. Amulya Ratan Ghose was put and lost.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

The motion was put and agreed to.

Preamble.

Mr. PRESIDENT: The question is that the Preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am not going to move the third reading of the Bill now, as some examination of the amendments is necessary and as a result of such examination I may have to move some consequential amendments. So I would, with your permission, Sir, defer the third reading for a few days.

Adjournment.

The Council was then adjourned till 2-30 p.m., on Thursday, the 1st September, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Thursday, the 1st September, 1932, at 2·30 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 107 nominated and elected members.

Oath or affirmation.

The following member made an oath of his allegiance to the Crown:—

Mr. W. J. Kerr.

STARRED QUESTIONS

(to which oral answers were given)

Abduction cases in Bengal.

*196. **Babu SATISH CHANDRA RAY CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to lay on the table a statement showing, district by district, from April, 1931, to March, 1932—

(*i*) the total number of cases of abduction of girls in Bengal;

(*ii*) the number of convictions; and

(*iii*) the number of acquittals?

(*b*) Have the Government issued any special direction to the police officers in regard to the investigation of such cases?

(*c*) If not, what special measures are the Government contemplating to cope with this evil?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) (*i*) (*ii*) (*iii*) A statement is laid on the table.

(*b*) Yes. Special care in investigating these cases has been ordered.

(*c*) Does not arise.

Statement referred to in clause (a) of starred question No. 196, showing the number of abduction cases in Calcutta and the several districts in the province during the period from April, 1931, to March, 1932, and their results.

Name of district.	Number of cases of abduction.	Number of convictions.	Number of acquittals.	Remarks.
Burdwan ..	4	..	4	
Birbhum ..	8	2	..	
Bankura ..	6	1	2	3 cases pending.
Midnapore ..	18	2	16	
Hooghly ..	21	2	5	3 cases pending.
Howrah ..	7	..	2	
24-Parganas ..	40	11	28	1 case pending
Nadia ..	31	7	16	
Murshidabad ..	10	3	1	1 case pending.
Jessore ..	19	6	12	1 case pending.
Khulna ..	24	3	19	1 case pending.
Dacca ..	37	5	32	
Mymensingh ..	177	24	56	
Faridpur ..	35	1	10	
Bakarganj ..	95	13	41	
Rajshahi ..	38	5	21 (including cases discharged).	
Dinajpur ..	34	3	11	
Jalpaiguri ..	20	5	5	2 cases pending.
Darjeeling ..	6	2	2	1 case pending.
Rangpur ..	61	2	46	13 cases pending.
Pabna ..	25	5	13 (including cases discharged).	7 cases pending.
Bogra ..	22	9	8	
Malda ..	5	..	1	
Chittagong ..	36	2	12	1 case pending.
Noakhali ..	1	1	..	
Tippera ..	16	2	14	
Chittagong Hill Tracts ..	6	2	4	
Calcutta ..	62	14	12	1 case pending in the Sessions Court.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to give us any information as to whether the number of such cases is on the up grade?

The Hon'ble Mr. R. N. REID: I have an impression that it is, but I am not quite sure.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to give us any explanation as to the number of acquittals?

The Hon'ble Mr. R. N. REID: I must ask for notice.

Babu SATYA KINKAR SAHANA: In the district of Mymensingh there were 177 cases of abduction; of these 24 were convicted and 56 acquitted. Will the Hon'ble Member be pleased to give us any information about the remaining 97 cases?

The Hon'ble Mr. R. N. REID: Presumably there was not sufficient evidence to send them up.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether it is not a fact that most of these cases are tried by a jury and the result is determined by the jury?

The Hon'ble Mr. R. N. REID: I suppose so.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Member be pleased to state whether it is not a fact that the large number of acquittals in these cases is due to the fact that most of these cases are not real abductions but of connivance?

The Hon'ble Mr. R. N. REID: Presumably.

Babu HEM CHANDRA ROY CHOUDHURI: In view of the large number of abduction cases and the few cases of conviction, will the Hon'ble Member be pleased to consider the necessity of passing any legislation for the suppression of these abduction cases?

The Hon'ble Mr. R. N. REID: Legislation has not been considered in this connection.

Temporary clerks and probationers appointed by District Judges from depressed classes.

*197. **Rai Sahib SARAT CHANDRA BAL:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a statement showing, district by district, for the years 1929, 1930, 1931 and 1932—

(*i*) the names of persons appointed as temporary clerks and probationers by the District Judges;

(*ii*) how many of such temporary clerks have been taken as probationers;

(*iii*) how many of the probationers have been confirmed; and

(*iv*) how many of them (both probationers and temporary clerks) are Hindus, Muhammadans and of the depressed classes?

(*b*) With reference to Appointment Department memorandum No. 3540-3554A., dated Calcutta, the 28th April, 1931, will the Hon'ble Member be pleased to lay on the table a copy of the return received from the district authorities and other officers who have appointments under their control showing the number of ministerial posts filled up by the Muhammadans, non-Muhammadans and depressed or backward classes?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) and (*b*) Statements are laid on the Library table.

Babu AMULYADHAN RAY: Is the Hon'ble Member aware that in many districts and in many offices, the recruiting authorities have not at all followed the memorandum No. 3540-3554A., dated the 28th April, 1931.

The Hon'ble Mr. R. N. REID: I am not aware of that.

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to tell us whether out of the three appointments in the District Judge's office in Bakarganj, from the backward classes, two do not come under the classification of "backward classes".

The Hon'ble Mr. R. N. REID: I think the hon'ble member pointed that out on a previous occasion, and I said I would inquire about it.

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to tell us whether Government have any intention of drawing the attention of the recruiting authority to this memorandum.

The Hon'ble Mr. R. N. REID: I intend to take that matter up.

Santal education in the Bankura district.

*198. **Babu SATYA KINKAR SAHANA:** (*a*) Is the Hon'ble Minister in charge of the Education Department aware that there is a committee consisting of official and non-official members with the District Magistrate as the Chairman for Santal education in the district of Bankura?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state—

(*i*) the principle of appointing the non-official members in the committee;

(*ii*) how many times the committee sat within the last five years;

(*iii*) what steps have been taken by the committee for the propagation of education amongst the Santals of the district;

(*iv*) the number and names of schools conducted by the committee;

(*v*) the names of such schools receiving aid from the Government; and

(*vi*) the amount of aid received by each of them?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) Yes.

(*b*) (*i*) The non-official members are one representative each of the district board and of the Sarenga Mission, which is particularly interested in the education of Santals.

(*ii*) Twice.

(*iii*) A statement is laid on the table.

(*iv*) No schools are under the direct management of the Board of Santal Education. They are all privately managed, but they receive small grants-in-aid in the shape of stipends to teachers from this Board, the district board and Government.

(*v*) and (*vi*) A statement is laid on the table.

Statement referred to in clause (b) (iii) of starred question No. 198.

Provision has been made for the—

(1) improvement of existing Santal primary schools by an aid system every quarter. Total allotment Rs. 1,495.

(2) institution of ten new Santal schools with a grant of Rs. 5 per month. Total allotment Rs. 600.

(3) award of two special Government preliminary primary scholarship of Rs. 2 per month. Total allotment Rs. 96.

(4) development of one existing Mission Training School at Seranga. Total allotment Rs. 1,008.

(5) award of capitation allowance to Santal pupils reading in ordinary primary schools. Total allotment Rs. 380.

(6) award of repair grants to Santal primary school houses. Total allotment Rs. 105.

The Board of Santal Education administers all funds available for the purposes from Government.

Statement referred to in clause (b) (v) and (vi) of starred question No. 198.

Number and name of Santal schools.		Amount of Government grant received by them per month during the year 1931-32.
		Rs.
1.	Dhobargram ...	7
2.	Kolesuli ...	10
3.	Paksara ...	10
4.	Balibandh ...	7
5.	Hansapahari ...	10
6.	Palsora ...	17
7.	Sahika ...	20
8.	Ushardi ...	14
9.	Brahmansasan ...	17
10.	Kalipahari ...	14
11.	Bhalukgaria ...	7
12.	Saluni ...	7
13.	Moysana ...	7
14.	Akandgora ...	7
15.	Paragola ...	10
16.	Bajurdi ...	10
17.	Shibsole . .	7

Number and name of Santal schools.		Amount of Government grant received by them per month during the year 1931-32.
		Rs.
18. Kendua	...	7
19. Gidhuria	...	7
20. Jamthole	...	7
21. Murlu	...	7
22. Krishnapur	...	7
23. Kuldiha	...	10
24. Kurustholia	...	7
25. Masra	...	21
26. Benasuli	...	7
27. Ekhopal	...	10
28. Senagora	...	10
29. Raidi	...	10
30. Fulberia	...	10
31. Mashanjhar	...	11
32. Tilabani	...	10
33. Dedua	...	10
34. Sindurpeti	...	10
35. Machgeria	...	10
36. Shyamadi	...	10
37. Barikul	...	20
38. Chaltha	...	10
39. Maknu	...	10
40. Gunpura	...	7
41. Bethuala	...	14
42. Churapathar	...	10
43. Tuman	...	7
44. Budhkhilla	...	7
45. Manicbazar	...	7
46. Asthasole	...	20

Babu SATYA KINKAR SAHANA: Will the Hon'ble Minister be pleased to tell us the number of members of the committee for Santal education in the district of Bankura?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Three.

Babu SATYA KINKAR SAHANA: Will the Hon'ble Minister be pleased to tell us whether in all the 46 Santal schools, there are any Hindu or Muhammadan students?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I must ask for notice.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Minister be pleased to state whether the district board of Bankura has anything to do with these Santal schools?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (Inaudible at the Reporters' tables.)

Khan Bahadur Maulvi AZIZUL HAQUE: In addition to the usual grant for primary education to the district boards, will the Hon'ble Minister be pleased to state whether there is any other grant for these schools?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Arrests and convictions of males and females for offences of a political nature.

83. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Will the Hon'ble Member in charge of the Political Department be pleased to lay on the table a statement showing for the last six months—

(*i*) the number of males that have been taken into custody on suspicion without trial;

(*ii*) the number of males imprisoned after conviction on charges of political offences;

(*iii*) the number of females that have been taken into custody on suspicion without any trial; and

(*iv*) the number of females imprisoned after conviction on charges of political offences?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*i*) 558 males have been arrested under the Bengal Criminal Law Amendment Act, 1930, up to 30th June, 1932.

(*ii*) 9,367 males have been imprisoned for offences in connection with the civil disobedience movement up to the end of June, 1932.

(*iii*) 9 females have been arrested under the Bengal Criminal Law Amendment Act, 1930, up to 30th June, 1932.

(*iv*) 600 females have been imprisoned for offences in connection with the civil disobedience movement up to the end of June, 1932.

Hardinge Bridge.

94. Mr. SHANTI SHEKHARESWAR RAY: (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to state whether it is a fact that an extra charge for 17 miles is made on all passenger and goods traffic over the Hardinge Bridge on the Eastern Bengal Railway, and, if so, why?

(*b*) Will the Hon'ble Member be pleased to state—

(*i*) the cost of construction of the Hardinge Bridge; and

(*ii*) the amount that has been collected up to date by this extra charge?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) Yes; a special rate over this expensive section of the line is obviously justified and the method adopted of assuming a hypothetical increase in distance is that usually adopted in all such cases.

(*b*) (*i*) Rs. 3,51,32,164.

(*ii*) No separate accounts are maintained by the Railway authorities from which it would be possible to evaluate the amount that has been collected up to date by the extra charge and it would be a work of many months to obtain such figures. A special investigation in 1929 however showed that the earnings from this extra charge do not cover the interest, maintenance and depreciation charges of the bridge.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether it is the intention of Government to charge this for all time to come?

The Hon'ble Mr. J. A. WOODHEAD: I suppose as long as they are necessary.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to say whether there is any suggestion if the bridge is washed away, these charges should continue?

(No reply.)

Chittagong District Board.

95. Maulvi NURAL ABSAR CHOUDHURY: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware that the Chittagong District Board has passed a resolution for the compulsory retirement of the Board's employees who have completed either 27 years' service or have attained 55 years of age?

(*b*) Has the scheme been approved by the Commissioner of the Chittagong Division? If not, why not?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) Yes.

(*b*) No: it has not yet been forwarded to him.

Agricultural and Sanitary Improvement Act, 1920.

96. Maulvi ABDUL HAKIM: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether any works under the Bengal Agricultural and Sanitary Improvment Act, 1920, have been executed in the province since the passing of the Act, up to the year 1931?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to lay on the table a statement showing—

(*i*) the name and number of such works;

(*ii*) the localities in which such works have been executed; and

(*iii*) the total amount of money spent on such works?

(*c*) Is the Hon'ble Minister aware that many marshy water-logged areas have been in existence for centuries in all the districts of Bengal?

(*d*) Has it been considered whether schemes under the said Act are feasible in those areas at small costs owing to the existence of rivers near those areas?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (a) Yes.

(*b*) A statement is laid on the table.

(*c*) There are many marshy areas in almost all districts in Bengal. Government do not know how many are water-logged or whether they have existed for centuries.

(*d*) The feasibility of schemes is not considered unless they are likely to be of utility: drainage of marshy areas in Bengal usually leads to increased malaria.

Statement referred to in clause (b) of unstarred question No. 96, showing the names of the schemes sanctioned by Agriculture and Industries Department and executed under Act VI of 1920.

Name of work.	Locality.	Total amount of money spent.
		Rs. a. p.
(1) Ichakhali khal scheme ..	In Mirsarai thana of Chitta-gong district.	6,535 5 2
(2) Mahash khal scheme ..	Ditto ..	*25,661 4 0
(3) Kashianulla irrigation scheme	In Nalhati police-station in Birbhum district.	*10,728 6 0
(4) Maraganga and Telkhali khal	In Kishoreganj subdivision of Mymensingh district.	2,900 0 0

* Up to 1931-32.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Minister be pleased to tell us whether he has any information as to the success or failure of these schemes from a financial point of view?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The schemes have to be completed; I think they have been a success, but I want notice.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to tell us whether any of the schemes were financed by Government?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: All of them.

Silting up of certain rivers in the Rajshahi district.

97. Rai Bahadur SATYENDRA KUMAR DAS: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether he is aware—

(*i*) that the river-beds of Baral, Narad, Hoja, Atrai, Baranai and other rivers in the Rajshahi district have been silting up year after year;

(*ii*) that no attempt whether by the Government or by any private body has ever been made to clear up the silts of the said rivers affecting natural flooding and flushing of the country within the last 50 years;

(*iii*) that the death-rate from malaria in the Rajshahi district has been highest in Bengal for several years past;

(*iv*) that from the beginning of this century the population of the district has been decreasing in most of the thanas; and

(*v*) that the birth-rate is lower than the death-rate in this district?

(*b*) Has the Hon'ble Minister ascertained through expert opinion or otherwise as to what part the silting up of river-beds plays in contributing to the decrease of population through malaria?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) (*i*) No. There are no records available to show that these rivers have been silting up continuously in recent years.

(*ii*) Yes. The matter has been investigated and it has been found that the silt clearance of these rivers is not likely to effect any permanent improvement. The slope in the rivers is so small that even if cleared of silt they would not maintain themselves and would soon silt up again.

(*iii*) Yes.

(*iv*) It has decreased in 10 out of 24.

(*v*) Yes; for the decennium 1921-31. In 1931 the birth-rate was higher than the death-rate.

(*b*) The Department of Public Health has published several works which bear on this subject.

Moslem Female Training School.

98. Khan Bahadur Maulvi ALIMUZZAMAN CHAUDHURI: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether the Moslem Female Training School has a governing body?

(*b*) If not, who have for so long been conducting and controlling the administration of the school?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) No. The formation of a managing committee for the school is under consideration.

(*b*) The Principal conducts the school and the Inspectress of Schools, Presidency and Burdwan Divisions, is the controlling officer.

Nursing staff of the Medical College Hospital.

99. Rai Bahadur Dr. HARIDHAN DUTT: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether it is a fact that the nursing of the patients of the Medical College Hospital is suffering on account of retrenchment of the nursing staff?

(*b*) Is it a fact that cabin patients are advised by the doctors in charge to engage special nurses at a cost of Rs. 14 per diem in addition to the daily cabin charge of Rs. 4 or more as the case may be, for their proper nursing and regular administration of medicines, diet, etc.?

(*c*) If the answers to (*a*) and (*b*) are in the affirmative, what steps do the Government intend taking in the matter?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) Yes: in some degree.

(*b*) This has been done sometimes in serious cases.

(*c*) The intentions of Government have already been announced in connection with the demand for a token grant towards the Hospital Nurses' Institution. The recruitment of nurses has since been reopened, and there should be an improvement soon.

Rai Bahadur Dr. HARIDHAN DUTT: With reference to answer (*a*), is the Hon'ble Minister aware that on the 11th July last a patient was kept in one of these cabins under Major Dey who reported that the patient was not getting medicine regularly according to his instructions?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government have no information.

Rai Bahadur Dr. HARIDHAN DUTT: With reference to answer (*b*), will the Hon'ble Minister be pleased to state whether he can expect a middle-class man to occupy these cabins and pay Rs. 14 plus Rs. 4, that is Rs. 18 a day? Is it fair to expect that?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It is certainly rather high.

Rai Bahadur Dr. HARIDHAN DUTT: If that be so, will the Hon'ble Minister be pleased to tell us what urgent measures he proposes to take in this matter?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government have already anuounced the formation of a committee to go into the whole question of nursing, of which my hon'ble friend is a member.

Point of order.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir, may I point out that in the List of Business circulated to us, under rule 20 of the Manual, the Bengal Criminal Law Second Amendment Bill is to be taken up after the termination of the business in connection with the Bengal Municipal Bill. That business has not yet been terminated.

Mr. PRESIDENT: The List of Business is not unalterable. Besides, the word "termination" for all practical purposes must include any period during which the Bengal Municipal Bill is not being considered by the Council. When there is a lull in the consideration of that Bill, the Council cannot be expected to sit idle, and I have directed that other business should be taken up then.

GOVERNMENT BILL.

The Bengal Criminal Law Second Amendment Bill, 1932.

The Hon'ble Mr. R. N. REID: I beg to introduce a Bill further to amend the Bengal Criminal Law Amendment Act, 1925.

[The Secretary then read the title of the Bill.]

The Hon'ble Mr. R. N. REID: I beg to move that the Bengal Criminal Law Second Amendment Bill, 1932, be taken into consideration.

The Bill is a short one and its purpose is to recommend certain provisions which have been found necessary in the light of experience, which are by way of removing certain defects in the existing Act. The Bill has been in the hands of the members for some time, and I do not think I need add anything to what is contained in the Statement of Objects and Reasons. It consists of four main clauses. The first of them will enable Government to appoint a fresh tribunal for the trial of accused persons whose trial has not yet commenced. The reason for this arose out of a difficulty which occurred in connection with the Chittagong Armoury Raid case. It consists of four main clauses. The first of them enables Government to appoint a fresh tribunal for the trial of accused persons whose trial has commenced but has not been completed. The reason for this is to get over the difficulty which occurred in connection with the Chittagong Armoury Raid case. A notification was issued which constituted the tribunal in that case and which ordered that certain persons should be tried under the Criminal Law Amendment Act by that tribunal. In this notification were not only the names of the persons who were present and ready to be tried but also of a number of those who were accused in the case but were not then in the hands of the authorities. The case proceeded against those who were present and the trial was concluded on the 1st March last. Government were then informed by their legal advisers that the original tribunal which had been appointed to try the case and which concluded the case against the majority of the accused still had seisin of the case as against the remainder. It was clearly inconvenient and undesirable to attempt to reassemble the original tribunal for the trial of the remaining accused and it was realised that those remaining accused when they came to be tried would have a legitimate ground of complaint if they were tried by the same tribunal which had already come to a conclusion on the same facts and made up their minds on those facts. That is the purpose of the first amendment.

The second one is connected with section 307 of the Indian Penal Code which makes the death penalty one of the penalties which can be inflicted by the special tribunal in cases of trials for offences which come under the first part of section 307 of the Indian Penal Code. This enhanced penalty for the crime of attempted murder in support of terrorism is intended as a deterrent and it can well be argued also that it is appropriate to the case. The Bengal Criminal Law Amendment Act is intended to deal with cases arising out of or in connection with the terrorist movement. The method which the terrorist organisation has adopted as the chief means of attaining its object is murder, deliberate murder, murder as part of a deliberate programme, not murder done under sudden provocation, not murder done as an act of private revenge. In such a case there can be no extenuating circumstances but morally the attempt is just as serious as the fact of bringing off the

attempt successfully. The penalty, therefore, should be the same for both and there is no reason why a criminal, who has made an attempt but by some accident has failed in the attempt, should be treated more leniently than one who has actually succeeded in committing a murder.

The next clause is in two parts, the first of which is designed to ensure the security of the men who are sitting on special tribunals as commissioners and of those who are present in the court. That this is necessary has been amply proved in recent years. I may mention only two instances. During the course of the Chittagong Armoury Raid case there was constant plotting both in the jail and outside it to destroy the judges who sat on that tribunal and the other instance I would mention was that which occurred about a year ago not many miles away from this House when a judge was shot in the open court as an act of revenge for what he had done in carrying out his duty as President of one of those special tribunals.

Then there are certain additions which have been made to the first schedule of the existing Act which are obviously needed to fill up certain gaps.

Lastly, I have asked permission to put in a short notice amendment which is really a matter of drafting. That is to substitute for word "court" where it appears in sections 8A (*1*) and (*2*) and 8B (*1*) and (*3*) the words "for the trial" or the words "the commissioners" as the case may be. This was prompted by an amendment put in by the Rai Bahadur of Chittagong and after consideration and consultation with him we decided that this amendment which is purely one of drafting will meet the case.

With this brief explanation I commend the Bill for the consideration of the Council.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move, by way of amendment, that the Bill be circulated for the purpose of eliciting public opinion thereon by the 30th September, 1932.

It is very unfortunate that we cannot avoid a debate in this Council on Bills asking for extraordinary powers. On the last occasion when the Criminal Law Amendment Bill was before the House the Hon'ble Mr. Prentice in order to avoid an annual debate asked us not to press the suggestion that the Act should remain in force for one year only. But the Government has come forward again with another measure which gives rise to a debate which the Government intended to avoid on the last occasion. Sir, I know any request on my part to obtain the opinion of people of this province about changes proposed in this Bill will not be entertained by the Government for a moment. The attitude of Government is not a matter of surprise. But I think it is only fair to the members of this Council that they should know what the judges of

the High Court and the highest legal advisers of the Government think of the drastic changes proposed in the law of the land, particularly their opinion as regards the desirability or otherwise of the change proposed in clause 3 of this amending Bill. In this clause it is proposed to punish an attempt to murder by a sentence of death or transportation for life. It is a drastic and novel proposal. I know, Sir, under the authority of an ordinance such a sentence can be imposed. But I would like to point out to the Government, Sir, that a penalty of this nature should not be enforced in a particular province only. Suppose we pass this measure, what will be the effect? The attempt to murder in the province of Bengal will be punishable by death, whereas a similar attempt in another province will not be similarly punished. I would suggest to Government that if they think that such a punishment is necessary at all, a measure of this nature should be brought before the Legislative Assembly so that it may be enforced in all parts of India. Sir, as I have mentioned before it will be very helpful if we knew the views of the High Court in this connection. The executive side of the Government in an attempt to get some such special powers should at any rate show some consideration to the views of the officers on the judicial side. I do not know if such an opinion has been obtained by the Government. If the Government are already in possession of their views, may I appeal to the Home Member to place the same before the House?

MUNINDRA DEB RAI MAHASAI : Sir, I beg to support the motion moved by my friend Mr. Ray. Nobody can deny that the Bill has been drawn up in extraordinary haste. As a matter of fact, the Home Member himself has given notice of four amendments. This showed the necessity of a thorough overhauling of the Bill itself. There need not be any undue hurry about the passage of the Bill. The ordinance will continue to be in force for some time to come and opportunity should be given to have the Bill discussed threadbare in the meanwhile. Sir, I find in the Statement of Objects and Reasons that this Bill has been introduced with a view to cure certain defects which have been detected during the administration of the Bengal Criminal Law Amendment Act, 1925, and that the necessity for this amendment has arisen in connection with the Chittagong Armoury Raid case. Certain sections of the Bengal Emergency Powers Ordinance of 1931 and 1932 have been reproduced in the Bill and some more sections of the Indian Penal Code have been added to the list of sections mentioned in Schedule I of the Bengal Criminal Law Amendment Act, 1925.

3 p.m.

Sir, this Council cannot be said to have been ever niggardly not only in the supply of funds but also in the supply of all that was

necessary to the executives for combating with political crimes which has tarred the fair name of Bengal. It has always tried to strengthen the hands of Government to cope with the canker of anarchism which has got a firm hold on the body politic of Bengal. Not satisfied with the powers given in the statute book, ordinance after ordinance have been requisitioned to crush not only anarchism but also the rising spirit of nationalism in the land. And now attempts are being made to include some highly objectionable provisions in the ordinances of 1931 and 1932 in the Statute Book. The cardinal principle of the English constitution is the rule of law. Whatever is done must be done under some sort of law. In England freedom and right of the subject are fully secured by the rule of law, but that is not always the case so far as this country is concerned. Here it takes the form of uncontrolled administrative authority—the modern guise of an ancient tyranny even though it may bear a different label. Justice and fairplay had been the characteristic feature of our English administrators of the past. They never stooped to stain the traditions of justice which England through long centuries has made her dearest watchword. But, Sir, the misdeeds of the servants of the Crown in recent years have shaken the faith of the people in British justice. These servants are betraying the trust imposed on them. They are to a certain extent responsible for this lamentable state of things. They have been given unbridled license to run the administration of this unhappy land in an irresponsible manner without any system of checks and balances, and as a result the situation in the country is going from bad to worse. Sir, every person, irrespective of rank or condition, should be equally subject to the law of the land and to the jurisdiction of the courts. May I ask, Sir, has this principle been followed in the case of the licensed murderers of Hijli, the licensed hooligans of Chittagong who ruthlessly plundered and destroyed the hearth and homes of the innocent inhabitants of that unfortunate locality? May I ask, Sir, has any proceedings been drawn up against these spoilt and pampered children of Government? Has any of them been brought to justice in a competent court of law? Have you not followed a "hush" "hush" policy in dealing with the situation? Is that the way in which you should run the administration? Is this not an abuse of power? Have you proved yourself worthy of the powers already vested in you, in the discharge of your duties? In view of your failure to prove your ability, fitness and integrity, will there be any justification for the legislature to arm you with further powers?

Under cover of this Bill you want to trample under foot all canons of law and elementary justice to the subjects by legalising all unlawful actions by persons in authority. You want to shut out the public during the trials, you want to proceed with cases in the absence of the accused charged with grave offences, you want to pass sentence of death or of

transportation for life on a summary method without any open trial and you want to legalise omissions and irregularities which may be committed during the trial by the trying commissioners. These methods of trial stand self-condemned. A trial before commissioners specially nominated cannot be impartial. Each defect is a trespass on the principle of English law; each is a mockery of morality. The displacement of ancient and well-grounded landmarks of British justice cannot but plant the seeds of revolutionary hatred. You are at liberty to govern the country by as many ordinances as you like, but pray do not make us a party to the perpetuation of the blunders which you are bent on committing. As representatives of the people, we hesitate to join with you in such a highly objectionable legislative measure.

Rai Bahadur KAMINI KUMAR DAS: Sir, I beg to oppose this motion on the following grounds:—

The present Bill is to discuss certain law points and procedure; eliciting public opinion means sending it to some public bodies and associations and if there be no lawyers such associations will not be able to render much help; if legal opinion is wanted there will be no dearth of it in this House. As to the opinion of the Hon'ble High Court there will be enough opportunity afterwards. Besides the Statement of Objects and Reasons will show that the Bill has reference to Chittagong Armoury Raid case and the main amendment in clause 2 has arisen in connection with that case. Therein you will find that certain commissioners were appointed under sections 2 and 4 of the Criminal Law Amendment Act (Bengal) to try certain persons. Some of these persons have been tried and some are awaiting trial. Anxious solicitude has been expressed on the floor of this House for expediting trial of accused like Ambika Chakraverty. The statement will show the honest desire of Government not to have the rest of the accused tried by the former commissioners who have formed some opinion upon same facts and so they want that there should be a new set of commissioners to try these accused and there will be some difficulty unless the law is changed as to withdrawal and transfer of the case and it is also not very easy to re-assemble the same commissioners for such supplementary trial. On these grounds I think no ostensible purpose will be served by inviting public opinion. The trial of the accused abovementioned will be long delayed and therefore it is very desirable that to expedite the abovementioned trial and to comply with wishes of the Hon'ble Member, the Bill should be expedited and by this the anxieties of many people will be removed.

Mr. B. C. CHATTERJEE: Sir, I thought that I should just silently oppose the Bill without taking part in the discussion but the eruption

to my right has compelled me to get up and repudiate the speech of the Rai Bahadur. I shall only repeat what I have often said: We are in the grip of a terrible tragedy, and both the principal parties concerned should think over the matter from the point of view of finding a solution. The anarchists who go on killing Britishers in the way they have gone on do not realise, apart from all other questions—questions of morality and the like—that the Britisher is a fighter, and you cannot get him out of the country by merely shooting a number of his compatriots. That is the first thing these young men should realise before they go further on this road. On the other hand, the Government does not seem to realise that since it is going to introduce popular Government in the country, it should do so at once, instead of merely waiting, and going on with this painful process of legislation of a kind which is anti-British, and which, I know, in their heart of hearts Mr. Reid and his colleagues cannot possibly like. I understand we are going to have full provincial autonomy within a measurable distance of time—within a year or so. If that is so—if you are going to give us full provincial autonomy in a year or so, if you are going to transfer the portfolio of law and order under the control of a popular Minister, why not do it now? The law does not put a bar to your doing it now. I still remind you that it will be statesmanlike to give it now. If you find that because of the transference the anarchist outrages have disappeared, that the young men given up their revolutionary programme and come back to the side of law and order, then of course you will have obtained a very very sure foundation to build Bengal's future liberty upon and you will then know that by granting autonomy you will be making for safety, you will be making for a goal which would ensure Bengal peace and order. But on the other hand if you hand over the portfolio of law and order and these outrages do not cease then certainly your coming reforms will have to be differently orientated —you will have to give them a different orientation. That is my point. As you are now proceeding you are putting the cart before the horse. Why not first see whether the introduction of democratic Government in the most vital part of the sphere of Government, namely, the maintenance of public security, is not going to bring about a change in the mentality of these young men? If it does, you should go on with the programme of political advancement. On the other hand if it does not, I submit that so far as Bengal is concerned, Great Britain will have to take some different course from that which she is now thinking of taking. Is it not better to do this at the present moment than to take your leap in the dark? Instead of that, what we are having is that, on the one hand, these youngmen are flinging themselves on Englishmen with poison in one hand and firearm in the other and the British Government, on the other, is trying to crush this movement by resorting to legislation of an extraordinary nature which does not really get at the men for whom it is intended. Why should you have this

abnormal process going on and on and on without making an endeavour to do something constructive and taking a step which will test the capacity of Bengal for participation in that self-government which you say you are going to give us?

Khan Bahadur MUHAMMAD ABDUL MOMIN: Like my friend Mr. B. C. Chatterjee my intention was not to speak on this motion but to silently oppose the amendment. But finding that Mr. Chatterjee has strayed away from the issue of the amendment I think it is necessary that the House should be brought round from the irrelevant point on which he has been speaking all this time.

Mr. PRESIDENT: I might correct the Khan Bahadur and say that a member is well within his right to voice what he thinks to be public opinion while a motion for circulation of a Bill for the purpose of eliciting public opinion thereon is under consideration.

Khan Bahadur MUHAMMAD ABDUL MOMIN: The point in this motion is not whether the amending Bill is desirable or not nor are its merits or demerits under consideration now. The point at issue is whether the Bill should be circulated for eliciting public opinion. I think on that particular question the motion is really intended to be a dilatory motion, and not a motion for really obtaining public opinion——

Mr. PRESIDENT: I must again correct the Khan Bahadur and tell him that the principles of the Bill may be discussed now.

Khan Bahadur MUHAMMAD ABDUL MOMIN: But since in this particular matter the principles have been discussed so often and at such langth and on so many occasions before, I do not think it is necessary on a motion like this to go over the whole ground again. If every speaker does that I do not know where we shall stand.

Mr. PRESIDENT: That may be the Khan Bahadur's opinion but I am unwilling to stifle discussion.

Khan Bahadur MUHAMMAD ABDUL MOMIN: As regards circulation to elicit public opinion I do not think there is hardly anything new to be elicited about the Bill. There is no question that most of us, in fact almost every one, dislike it and this has been said often and often by members in this House. But in spite of that the executive Government consider such drastic measures necessary and where such

powers as they have already got under the Criminal Law Amendment Act have been found to be defective or ineffective, it is contemplated by this Bill to correct the existing defects in the Act, to complete the powers which are found necessary from experience. That is the point. I think that by circulating the Bill we shall not get any fresh materials for consideration by Government, which we have not already got at the present moment. I therefore think that this motion should be opposed.

Babu KISHORI MOHAN CHAUDHURI: (He was inaudible at the Reporters' tables.)

3-30 p.m.

Maulvi ABUL KASEM Sir, I rise to oppose the motion of my friend and I do so because I do not think any useful purpose will be served by circulating this Bill for public opinion. Public opinion, as it is, is well known not only to the members of this House but to the members of the Government as well. Opinions have been expressed both in the press and on the platform and enough has been said and written about it; so it is not at all necessary to circulate the Bill for the purpose of eliciting public opinion thereon. I have heard with much interest the speech of my friend, Rai Mahasai, but in spite of his high eloquence I could not, it may be due to my want of intelligence, find any argument or reason in it. It has been said, Sir, that this piece of legislation is un-British in character and opposed to the principles of British jurisprudence. Not being either a lawyer or a student of jurisprudence (A VOICE: Or a British), or a British I cannot appreciate it but this much I know that in my country unfortunately there are people whose main object is to create lawlessness and disorder in this country and it is the duty of every citizen to find out the means to remove this danger from the country. I do not say, because I am not in a position to say so nor am I capable of doing it, that this piece of legislation or the ordinances or the Terrorist Bill or any law promulgated or enunciated by Government are the surest or the only method for that purpose; but, situated as I am, I for myself cannot suggest any other method by which this terrorism can be suppressed. Therefore I have no other alternative but to leave it to the executive to do what they can. Therefore, Sir, I think that we ought to support the Government and give them a chance to see that if they can remove the evil and restore peace and order.

My friend, Mr. B. C. Chatterjee, has suggested that if the portfolio of law and order be transferred to a responsible Minister, then the terrorists, anarchists and all those who are out for disorder will give it up and be lawful citizens. I think it might be given a trial.

But my opinion is that the class of people who are responsible for these outrages and disorderliness are not concerned either with the colour or the skin of the Member-in-charge or of the nature of the Government that exists in the country. They are out in all countries and in India as well to bring about disorder and anarchism in the land. It is not because they do not like the Government but because their vocation is to create disorderliness and revolution in this country. Sir, if it is said that if a Minister responsible to the legislature has charge of this measure this evil will disappear. I suppose Mr. Chatterjee had in mind that a Minister responsible to the legislature will not venture to introduce legislation of a drastic kind such as the one we have at present. But the difficulty is, will the Minister, without recourse to such legislation, be able to meet with the situation and to restore peace, law and order—at any rate to give security of life and property at least to a large number of the people—that is the point? Therefore, Sir, you will have to bring some such measure, to which exception will be taken by a very large section of the people, who nursed in British literature and British jurisprudence are apt to think of these things in a hostile spirit. I think, Sir, the time has come when something ought to be done to bring about a sense of security among the people of this country. It has been said that public opinion has been expressed on this matter. I have seen it that whenever an outrage is committed there is unrestricted condemnation both on the platform and in the press but the evil continues. If that is so I think we should give a further chance to the executive Government to relieve us of this evil and to bring about peace and order. If they fail to do so, then it will be our duty to see how to deal with it.

Mr. NARENDRA KUMAR BASU: Sir, I have listened with very great interest and attention to the speeches made in opposition to this amendment. As far as I can make out, Khan Bahadur Abdul Momin, true to his traditions, has said that we must trust the executive. Well, I venture to think that very few people in this House, I would not say none, will be of the same opinion as the Khan Bahadur so far as to give a free hand in all matters to the executive. Sir, if that were so, there would be absolutely no necessity for having a Legislative Council. Why have a Legislative Council at all if the executive Government are to have a free hand in all matters? I do not think that the Khan Bahadur was thinking about what he was speaking, when making these utterances in the Council; he could have made such utterances when he was sitting in the chair of the Commissioner of a Division. However, so far as my friend Mr. Abul Kasem is concerned, he has told us that we ought to give the Government a chance to see how these measures will bring back a sense of security to the country. This amending Bill is a Bill to amend the Act of 1930 which was in continuation of

an Act of 1925. So for the last seven years we have been giving chances after chances to the executive to try by their methods to suppress terrorism. Sir, if the truth is to be told, the executive have failed and failed miserably. It is not our business on this occasion to make suggestions, but it is our business to consider whether the suggestions made by the executive are those that commend themselves to us. If it were my duty to suggest I would do so. I think it is not my duty, standing here as a member of the Legislative Council, to make any suggestions to the executive and I refuse to be attracted by the red herring drawn across by my friend the Khan Bahadur. What suggestions did he make when he was acting in an executive capacity? It is easy to sit here as a non-official member of the Council without any materials before him and to say that we have made no suggestions but, I say, it is for the Government, the people who profess to know the facts, to make suggestions. Are these suggestions such as have had any good result? That is the only thing we have got to consider here. As members of this Council know, in the Government of India Act there are provisions for legislation of two sorts, namely, laws made by the Legislative Council and the laws that might be promulgated by ordinances of the executive Government. The ordinances are not strictly laws and they have a limited application, simply because the policy is that laws to be administered in the country must be those passed by the Legislative Council. These emergency measures, according to the Government of India Act, have operation for only six months; why? because it was thought by the framers of the Government of India Act, *i.e.*, the British Parliament, that a state of emergency is merely a temporary one. You cannot say that the normal state of a country is a state of emergency. Well, if you do not and cannot carry on with ordinary laws of the land, you can have ordinances or even martial law which is the negation of law. To say that we ought to give the executive chances after chances is to ask us to simply surrender to the judgment of the executive the judgment of the Legislative Council.

Mr. Abul Kasem has also said that it is no use circulating the Bill for eliciting public opinion because public opinion is well known. I know public opinion is well known and it is well known also that public opinion is unanimously against the adoption of these illegal and un-British methods and knowing that, the executive Government has not ventured to circulate the Bill for eliciting opinion, the opinion either of the public or of the judicial authorities. We all know that capital sentence is something which is being considered in all countries whether this sentence has any real effect and whether it ought to be continued. In fact, several countries have abolished it. To say that for every attempt at murder you will inflict capital punishment is something which goes against the trend of modern civilisation. In this connection, Sir, I am tempted to relate a story which happened in my experience

30 or more years ago. I was then examining candidates for one of the law examinations—*viva voce* test. The question put to the candidates was: "A mixes poison with a drink but the drink does not kill a person. What was the offence if no man was killed?" One candidate said: "Sir, it was murder." I said: "Dear fellow, how can you call it murder when nobody was killed." Then he said: "It is abetment of murder." I said: "My dear fellow you cannot abet yourself." Then he stopped, scratched his head and said: "Sir, then it *must* be murder."

Sir, it is something like that which the Home Member is giving; although the assailant does not kill his victim it is certainly murder and you must inflict a death sentence. Is the sentence deterrent upon a class of people who go about with a pistol in one hand and cyanide of potassium in the other? Can you deter this sort of people by the empty threat of a sentence of death in your Statute Book? and a sentence which I am quite sure no judge worth his salt will pass. So far as the circulation motion is concerned, if the Government think that it is no use circulating the Bill because we know what public opinion is and we shall trample upon public opinion and get the Bill through the House *nolens volens*, of course that is another matter; but if law as legislated in this Council is to be something which ought to have the solid support of public opinion behind it, I think Government will be well advised to circulate the Bill, more especially as there is not much hurry about it.

3-45 p.m.

Maulvi ABDUS SAMAD: In response to Khan Bahadur Abdul Momin's call, I am prepared to offer some suggestions to the Government although I know that they will not be accepted. My suggestion is that there should be a change of policy, and that the Government should begin to rule India just as they would have ruled it if Indians were of their own kith and kin. In other words, they should rule India for the benefit of the Indians, and not for the benefit of British capitalism and British imperialism. Indians have now reached the age of adolescence, and it is only natural and consistent that they should desire to have an effective voice in the administration of their own country. Sir, it is urged that these repressive measures are necessary to suppress terrorism. I know, Sir, that there is terrorism, and that it is necessary to suppress it, but, Sir, these repressive measures have been tried from 1907; they were enacted and re-enacted, but have they produced the desired effect? Certainly not. They are treating the symptoms and not the real disease, and unless a proper diagnosis of the disease is made and a proper remedy applied in time, I think a crisis will come when it will be very difficult, if not impossible, to cure it. I humbly submit that the Government should think out some other measure for coping with this anarchical crime and not introduce

measures which will have no effect on terrorism. With these words, I beg to support this amendment.

The Hon'ble Mr. R. N. REID: I beg to oppose this motion for circulation. I do not see any real reason why this Bill should be circulated, and I venture to think that in the course of this discussion no real reason has been given. It is not a new Bill in the full sense of the word. It is merely a Bill to add certain amendments to an existing Act, the principle of which was accepted by this House two years ago. I do not think for that reason any useful purpose will be served by referring this Bill in order to elicit public opinion which, as numerous speakers have said, is already well-known. There are, however, one or two points which I would like to touch upon. The mover of this motion seems to be under a misapprehension as regards the scope and purpose of this Bill and of the existing Act. He said that with regard to the clause dealing with section 307, this ought to be a measure which should be passed by the central legislature. Why in Bengal and Bengal only is such a penalty to be made applicable to that particular crime? Well, the answer to that is that the Bengal Criminal Law Amendment Act is intended to deal, as it does deal, only with crimes connected with the terrorist movement, and this Bill also only covers this kind of crime. In other provinces, happily, there is no terrorist movement or a very small one, and that is the answer to that.

I would just like to reassure the Rai Mahasai that Government has no intention to crush nationalism. He coupled anarchism with nationalism, but there has not been, there should not be any connection between the two, and Government, I need hardly say, are not out to crush the latter, only to deal with the former.

To Mr. Chatterjee, I would like to say this: that if he could obtain a guarantee from some supernatural power agreeable to us both that the mere handing over of the portfolio of law and order to a responsible Minister, preferably, I suppose, Mr. Chatterjee, would bring about the peace and happiness which we are all so anxious to obtain, then I would gladly exchange places with him at once. But unfortunately it is not as easy as all that. I am very much afraid that terrorism will not disappear like a shadow when the new constitution comes in. I am afraid the revolutionaries do not think so. I have seen writings by some of them in which they anticipate that the new Government will, when it comes into power, be not only unlike the old one, and that they will have to be fought by the same weapons.

There is just one more point with regard to what Mr. Narendra Kumar Basu said, and that was that really astounding remark for a responsible member of this Legislative Council, that it was not his business to make suggestions. I can only express my amazement at this conception of civic duty and leave it at that.

With these words, I beg to oppose the motion.

The motion of Mr. Shanti Shekhareswar Ray was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Babu Jutindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kisheri Mohan.
Choudhury, Maulvi Nural Absar.
Dutt, Rai Bahadur Dr. Haridhan.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprosad.
Poddar, Seth Hunuman Prosad.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemeni.
Roy, Babu Satyendra Nath.
Samad, Maulvi Abdus.

NOES.

Afzal, Rawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Blandy, Mr. E. N.
Burai, Babu Cokul Chand.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nasirur Rahman.
Chaudhuri, Maulvi Syed Osmaa Haider.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. G.
Das, Rai Bahadur Kamini Kumar.
Eusufji, Maulvi Nur Rahman Khan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forrester, Mr. J. Campbell.
Gangali, Rai Bahadur Sasil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hossain, Maulvi Muhammad.
Hug, Mr. A. K. Fazl-ul.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Kerr, Mr. W. J.
Khan, Maulvi Amin-us-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Khan, Mr. Nazaur Rahman.
Law, Mr. Surendra Nath.
Lesson, Mr. C. W.
Maguire, Mr. L. T.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mukunda Behary.
Nag, Reverend B. A.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Raheem, Mr. A.
Rahman, Mr. A. F. M. Abdur-
Ray, Babu Amulyadhan.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Sijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. S. R.
Sen, Rai Sahib Akshoy Kumar.
Singh, Srijut Taj Bahadur.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Solaiman, Maulvi Muhammad.
Stapleton, Mr. H. E.
Suhrawardy, Mr. H. S.
Thomas, Mr. M. P.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 22 and the Noes 69, the motion was lost.

The motion that the Bengal Criminal Law Second Amendment Bill, 1932, be taken into consideration was then put and agreed to.

4 p.m.

Clause 1.

Mr. PRESIDENT: The question is that clause 1 stand part of the Bill.

The motion was put and agreed to.

Clause 2.

Mr. PRESIDENT: The question is that clause 2 stand part of the Bill.

Mr. P. BANERJI: I beg to move that in clause 2, in line 1, of the proposed sub-section (*4*), after the words "commencement of" the words "and during" be inserted.

The Hon'ble Mr. Reid while introducing the Bill has said that because considerable difficulty was experienced at the trial of the Chittagong Armoury Raid case this amending Bill is put in. The Local Government may withdraw a case from a tribunal and transfer it to another. He has not mentioned at whose instance this is going to be done. However an accused will have protection before the commencement of a trial and I suggest the addition of the words "and during" so that in future there may not be any further difficulty necessitating the bringing forward of another amending Bill in the shape of Bengal Criminal Law Third Amendment Bill. My suggestion is that as in all trials an accused, when he finds a judge is prejudiced against him, can apply for protection under section 526 to the High Court, here also there should be some such protection. I have suggested the insertion of the words "and during" so that the Local Government may be authorised to transfer a case during trial also when there is cause to suspect that a fair trial cannot be expected or when the accused is dissatisfied in the course of the trial or thinks that the commissioners are prejudiced against him. I therefore propose the insertion of these words, so that the Local Government may be in a position on the application of the accused person to transfer a case. Otherwise great injustice will be done to the accused person. In that view I beg to move this amendment and request the Hon'ble Member to consider the seriousness of the situation and accept it.

Babu HEM CHANDRA ROY CHOUDHURI: I rise to oppose this amendment. The substantial difference between this amendment and the clause is this: by clause 2 the Government is empowered to transfer a case from a set of commissioners to another set of commissioners before the commencement of the trial. But by this amendment the hon'ble mover wants to give Government the power of transfer even during

the trial. My own view is that this proposed amendment will not be to the interest of the accused but it will rather prejudice the accused. So long as Government is not responsible to the legislature and the police have great influence in forming the opinion of Government the Government is likely to misuse this power. For it may so happen that in cases where serious points in favour of the accused be found then police may report to the Local Government that it will be in the interest of the Government that this case should be transferred from this set of commissioners to another set of commissioners and that there the trial should be held. My friend in moving this amendment has told the House that the accused will be benefited if it is found that the commissioners are biased against the accused and if the accused makes an application to the Local Government the Local Government will find an opportunity to transfer the case. I think that that will not happen so long as the police is in charge of conducting the cases. Hence I think this amendment will not protect the interest of the accused but it will jeopardise their interest and hence in the sense of justice and in the interest of the accused I think this amendment should be opposed.

The Hon'ble Mr. R. N. REID: I beg to oppose this amendment. In fact I am astonished that a member of this Council should propose such an amendment because if it is accepted it will hand over to the Local Government absolute power, when they saw that a case was going against them, to take away from the special tribunal which was appointed to try the case and to set up another packed tribunal which they expect will do what they want. The desirability of having such a clause in the Bill was considered, certainly, but Government deliberately decided to omit the words proposed by the mover because they did not think it right to give the executive such powers. Therefore I beg to oppose this amendment.

The motion of Mr. P. Banerji was then put and lost.

Mr. PRESIDENT: The question is that clause 2 stand part of the Bill.

The motion was put and agreed to.

Clause 3.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: Is it your pleasure that I should move both the amendments together?

Mr. PRESIDENT: Yes.

Mr. NARENDRA KUMAR BASU: I beg to move that clause 3 be omitted and if that is not carried, then that in clause 3, in line 2 of the proposed proviso, after the words "punishable under" the words "the latter clause of" be inserted.

Clause 3 of the Bill says that provided that where the commissioners convict any person of any offence punishable under the first paragraph of section 307 of the Indian Penal Code, committed after the commencement of the Bengal Criminal Law Second Amendment Act, 1932, they may pass on such a person a sentence of death or of transportation for life. The first paragraph of section 307 reads as follows: "Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if hurt is caused to any person by such act, the offender shall be liable either to transportation for life or to such punishment as is hereinbefore mentioned."

That is the first paragraph of it in two clauses. My amendment is to delete the clause altogether and secondly, if it is the opinion of the House that the clause should not be deleted then I would ask the House that the punishment of death be restricted only to the second clause of the first paragraph of the Indian Penal Code when an attempt at murder shall be liable to the enhanced sentence. I need not probably waste many words over my amendment as I have already said that so far as capital sentence is concerned that is a matter very much debatable whether it really is a punishment which ought to be inflicted in these days. The Indian Penal Code was enacted in the year 1860 and after 72 years under the benign British rule there is such improvement in our position that in 1932 the British Government brings forward this amendment of the law that in Bengal an attempt at murder, whether causing hurt to anybody or not, should be punishable with death. I have already said that I do not expect that any fear of the punishment of death or of transportation in these cases would deter those persons who are terrorists or anarchists and that the experience of the last few years stresses the point that they do not stand in fear of any punishment that may be inflicted upon them. But then why should we as a legislature dye our hands with the blood of those men, men who have not shed blood and who did not even hurt anybody? Why should the Council go out of its way to say that death penalty should be inflicted on these persons?

With these words I commend my amendments to the acceptance of the House.

The Hon'ble Mr. R. N. REID: I beg to oppose the amendments. I gave reason in my introduction speech for the inclusion of this clause

in the Bill and have very little to add to them. The mover of this amendment referred to the very wide question whether the capital punishment given in these days is really acceptable to the civilised world at large. I am not going to enter into a discussion on that general question except to say that I have a very strong impression that at one time capital punishment was abolished in at least one country—I think it was in France—they were compelled to introduce it again and retain it.

4-15 p.m.

Well, Sir, in this case we are not dealing with ordinary crimes, but we are dealing with terrorist crimes—an organisation which, as I said before, relies on deliberate cold-blooded murders to carry out their aims. That organisation is determined whenever opportunity occurs to slay Government officials whose death they think will further their ends. If Government are not going to take every possible means they can to defeat that organisation, then they might as well give up altogether. The mover of the motion it seems to me takes a defeatist view when he says that no amount of heavy penalties would deter these men from committing these crimes. Well, Sir, that is a very debatable point. Not every anarchist has firearms in one hand and poison in the other and they do not by any means all court death. In any case from the deterrent point of view there is the potential anarchist to consider and surely it is conceivable that he will think twice before he sets out on his nefarious task if he knows of the severity of the punishment that may await him. I would oppose both the motions.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I support the amendments moved by my friend Mr. N. K. Basu. My first reason is that in making a suggestion of this nature, namely, that an attempt at murder should be punishable with death, in suggesting such a departure from the accepted and ordinary canons of justice and jurisprudence, Government should make out a very strong case before they can expect us to lend our support to the proposal. The Hon'ble Mr. Reid has said that Government think that it has become necessary to make the punishment a deterrent one. Well, Sir, may I ask him—have the punishments had any effect? The ordinance has been in existence for six months. This provision is already there under the ordinance, but in spite of the provisions of that ordinance attempts at murder have increased. If he thinks that such a provision in the statute book would have a better result, I am afraid he will be disappointed. If it had been found that by the ordinance Government had succeeded in striking terror in the hearts of the terrorists, there would have been some justification for Government to come before the legislature and ask for this

drastic measure. Sir, if I may be excused for taking a serious matter light-heartedly, I would refer to the feeling that comes up in my mind. I do not know if the Hon'ble Member has witnessed the Bengali play "Alibaba". In that play there is a scene—I think my friends here know of this—where someone gets a severe pain in the stomach and people rush about to seek and suggest a remedy: Someone says this, someone that, and everybody is trying to be helpful. Someone suggests absurd medicines for relieving the pain in the stomach. I am afraid our Government is in the same plight. It has got pain in the stomach. It cannot deal with the terrorist movement. Its friends the "Royalists" come forward and say—just provide the sentence of death for attempted murders and the terrorist movement will vanish, and the Government not knowing its mind, and incompetent as it is to deal with the situation, has accepted the suggestion.

Mr. W. L. ARMSTRONG: Sir, it has been argued that seutence of death is no deterrent because the terrorist who carries a revolver in one hand and potassium cyanide in the other is not afraid of death. Obviously he prefers to kill himself rather than be tried and sentenced. Sir, we have heard instances in England of cases where people in order to avoid being publicly disgraced by a sentence of court for, say, fraud or such other crimes, have taken poison which they managed to smuggle into the court. They would have been sentenced for such offences to, say, ten years' imprisonment, but even then they preferred death to a sentence for a number of years

Sir, it has also been argued that repressive measures have failed. It seems that in their opinion all forms of punishment ought to be abolished because punishments evidently do not abolish crime. Well, we have still to deal with cases of robbery with violence and thefts and other crimes and get people punished. It seems to me if we want to deal with this terrorist movement, we must provide for suitable punishment, and no constructive suggestions have up till now come from the party who poses to represent public opinion to cope with the terrorist movement. On the contrary, I have noticed a certain amount of sympathy for these men. I have noticed such sympathy in the case of a man who attempted to take another man's life in Clive Street. As it generally happens in such cases, this man was found with certain bruises on his body and it was argued that these bruises were inflicted by the police. It was never suggested that the wounds that were discovered on the body of that man could have been received during the scuffle at the time of his arrest. To express sympathy with a man who goes to kill another man who has no earthly chance of escape, with two weapons, is certainly the very way to encourage the terrorist

movement. The higher the standard of intellect, higher the standard of education, the greater is the responsibility of the man who expresses any sympathy with ghastly crimes against people, whether they be Government officials, or commercial men or whether they be Englishmen or his own countrymen, and to say that punishment will have no effect on them is absolutely wrong.

I take this opportunity of congratulating the police and the detective force—Indian and European—for getting this movement within limits, with such a small number of men to deal with terrorism, even to the extent they have done. It may be that we people of England think differently from the people in India. We achieve our objects by constitutional agitation and if we do not achieve our object we do not have recourse to terrorism. Terrorism as it stands is a greater bugbear. If we have really to get rid of this let us set about doing so. In other countries we know what happens in such cases. I have seen reproductions from actual photographs of men being beheaded in China, during the revolution on four blocks, and a large number, seeing the beheading, following in procession to meet the same fate. They were meted out this punishment because they opposed the Government party; these are punishments, we do not ask for. (A VOICE: Why not have them here?) Well, if you like to have it you can have it, but we have preferred more humane methods. I shall in conclusion say that whether the law provides for sentence of death or transportation for life we must express no sympathy for the terrorist.

Mr. SYAMAPRASAD MOOKERJEE: Sir, I should like to say a few words on the amendments moved by my friend Mr. Basu. I must first refer very briefly to the speech which has been delivered by Mr. Armstrong. He speaks of the humane provisions—that is the expression he used—which are contained in Bills of this description, the humane provision in the present case being that a man will be liable to be punished with death, although he may not have actually caused any hurt to anybody. That is the humane provision which Mr. Armstrong is just now contemplating. Mr. Armstrong said that Government ought to be congratulated on the great moderation which he has employed. But, Sir, the stories which do leak out about the happenings in the various jails and detention camps do not exactly lend support to the contention that everything that is humane is being followed inside those places. Mr. Armstrong gave an illustration from English public life. I would just also give an illustration of how insanity may descend upon a young man detained in jail—a young man who was at the time of his arrest perfectly healthy and who became suddenly insane within a week of his detention and died a premature death. Of course that is not a matter

which is before the House just now, but I do say that with regard to those matters there is a deep suspicion in the public mind that things have happened inside jails which were responsible for the death of persons, which was not exactly due to insanity. I will now come to the amendment before the House. I am not referring to the first amendment, because I do not think there is any chance of its being accepted by Government, but I do seriously ask the Hon'ble Member what harm is there in accepting the second amendment, 34J? Now that amendment, as Mr. Basu has made it clear by a reference to the provisions of the Indian Penal Code, contemplates that a person who has actually been found guilty of having committed hurt in his attempt to murder will be liable to be punished with death. Now, that is sufficiently deterrent. What harm is there if Government accept this amendment and remain satisfied with the provisions with regard to the first portion of this clause? I do not think that there is much substance in what Mr. Armstrong says. He tries to be humorous and asks the supporters of the amendment that since punishments have not proved deterrent with regard to other offences, they also should be dispensed with. I might, Sir, just put the reverse case. Would Mr. Armstrong be prepared to lay down that death penalty should be imposed in all those cases because the present punishments provided by the Indian Penal Code have not suppressed those crimes? That by itself is a grotesque proposition. I do think it would be a good gesture if not anything else on the part of Government if the Hon'ble Member could see his way to accept amendment No. 34J.

Maulvi TAMIZUDDIN KHAN: I would also give my support to the second amendment of Mr. N. K. Basu. Sir, after all we cannot ignore public opinion in all cases, and so far as public opinion in this respect is concerned that opinion in India is decidedly against capital punishment under any circumstances. But here we are not dealing with capital punishment under all circumstances; here we are dealing with certain extreme cases, *viz.*, that even if a person does not cause any hurt whatsoever in attempting a murder, he will be liable to be punished with death. That is a thing which the public in this country will look upon with very great disfavour, and that will be one thing which will make this measure and the Government, that administers it, unpopular even among that section of the people which has no sympathy whatsoever with the terrorist movement. Therefore, the second amendment, if it is carried, will not place Government under any disadvantage whatsoever on the other hand it will raise its prestige. So far as an extraordinary legislation like this is concerned, I think that the merit of such legislation should lie in this that it gives Government certain special powers by which Government can speedily and more effectively deal with the terrorist outrages. It is not so much in the

drasticness of the prescribed punishments but rather in the effectiveness of the methods to be employed that the merits of such emergency legislation lie. Therefore, I think the second amendment of Mr. N. K. Basu is extremely reasonable and Government should see their way to accept it.

Mr. H. J. TWYNAM: Mr. President, Sir, I rise to oppose the second amendment moved by Mr. Narendra Kumar Basu, under which the death penalty can only be imposed in cases in which the person assailed is actually hurt. The effect of the acceptance of the amendment might be that a person who only slightly injures a man would be liable to death, whereas a person with a similar intention but who fails to hurt at all, would escape the penalty. I, therefore, wish to oppose this amendment on behalf of Government.

The motion that clause 3 be omitted was put and lost.

The motion that in clause 3, in line 2 of the proposed proviso after the words "punishable under" the words "the latter clause of" be inserted was put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Bahar, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. S. C.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nural Absar.
Dutt, Rai Bahadur Dr. Haridhan.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Haque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Hug, Mr. A. K. Fazl-ul.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Mookerjee, Mr. Syamaprosad.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Suk Lal.
Poddar, Seth Hunuman Prosad.
Raikat, Mr. Prosanna Deb.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemoni.
Roy, Babu Haribansa.
Roy, Babu Satyendra Nath.
Roy Choudhuri, Babu Hem Chandra.
Sadeatullah, Maulvi Muhammad.
Samad, Maulvi Abdus.
Sen, Rai Sahib Akshoy Kumar.
Shah, Maulvi Abdul Hamid.
Singh, Srijut Taj Bahadur.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Bazir Uddin, Khan Sahib Maulvi Muhammad.
Blandy, Mr. E. N.
Chuni, Babu Gokul Chand.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
——— Khan Bahadur Maulvi Hafizar Rahaman.
——— Maulvi Syed Osman Haider.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. G.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Ensufji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forrester, Mr. J. Campbell.
Ganguli, Rai Bahadur Sunil Kumar.
Ghuznavi, the Hon'ble Alhaj Sir Abdelkerim.
Goldsmith, Mr. R. N.
Henderson, Mr. A. G. R.

Hussain, Maulvi Latafat.
Kerr, Mr. W. J.
Khan, Maulvi Amin-uz-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Lesson, Mr. C. W.
Maguire, Mr. L. T.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Mullick, Mr. Mukunda Behary.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasim bazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Raheem, Mr. A.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J.
Ray, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Rijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Stapleton, Mr. H. E.
Suhrawardy, Mr. H. S.
Thomas, Mr. M. P.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 36 and the Noes 59, the motion was lost.

[At 4-30 p.m. the Council was adjourned for prayer and it reassembled at 4-45 p.m.]

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that in clause 3, in line 7 of the proposed proviso, the words "of death or" be omitted.

Sir, I am sorry that I remain unconvinced with the arguments put forward by the Hon'ble Mr. Reid and Mr. Armstrong in favour of death sentence in these cases. No sane man can have any sympathy with the terrorists, as suggested by Mr. Armstrong. Sir, the most drastic penalty is death and it is the most arbitrary of all punishments. In cases which entail the penalty of death, it is customary for the accused to be tried with the aid of a jury. Its naive conscience unsophisticated in the law furnishes the best method of judging evidence Its moral judgment serves as a corrective for the laws. But the accused triable by the commissioners to be appointed under the Second Criminal Law Amendment Bill will be deprived of the benefits of a trial by jury. The passing of sentence of death in the Star Chamber method of trial is highly objectionable and miscarriage of justice is not impossible in such trials. Sir, it was a question of life and death and should not be lightly passed over. Sir, the commissioners are after all human beings. We should not forget to take into account the fallibility of human justice, which may make an error which is irredeemable if the death penalty is inflicted. Moreover, there can be no excuse for the supreme penalty for political offences. In such cases it can serve only as a bulwark of tyranny, and as an obstacle to political progress. No form of government which needs to bolster itself up with the aid of the death penalty is worthy of having any place in the civilised world. I hope the Hon'ble Home Member will ponder seriously over the matter and see his way to accept this amendment.

Mr. W. H. THOMPSON: Mr. President, Sir, the last speaker complains that neither Mr. Reid nor Mr. Armstrong have succeeded in convincing him as to the point of imposing the death sentence for an attempt at murder by a terrorist. The last division has shown how the House feels about it but with your permission may I try to put the argument in another way. In recent years or perhaps I should say during the last few centuries the tendency has been more and more in a court of law to analyse the intention of the accused. Where the law was not codified the progress has been gradual. More and more the attention of the jury has been turned towards the intention of the accused and more and more the judge has considered it in passing sentence.

Dr. NARESH CHANDRA SEN GUPTA: Sir, may I rise on a point of order and submit that Mr. Thompson's remarks are quite inaudible to us?

Mr. W. H. THOMPSON: Sir, I was saying that as the law has been developed in other countries and in India the progress of modern times has been for both judge and jury to turn their attention more and more to the intention of the person who commits a crime. The abettor is equally guilty with the principle in the eye of the law and generally the punishment for the attempt if unsuccessful is the same as if the criminal succeeds. Only in the case of murder is an exception made in the penal code. I consider that it is somewhat of an anachronism that when the person who attempts murder is not successful the penalty is not the same as when he succeeds. That, I think, is a relic of a very much older method of the administration of law when it was an eye for an eye, a tooth for a tooth and a dead body only in return for a dead body. Now-a-days none of us would have that sort of thing. Now, the intention is what should guide the law, and in this type of cases the intention of murder is there in every case, no matter whether the terrorist is successful or not. Success or failure is a matter more or less of efficiency on the part of the terrorist and because the terrorist has been inefficient or has bad luck from his point of view, should he not be proceeded with exactly in the same way as if he were successful and be liable to the same punishment?

Mr. P. BANERJI: Sir, I beg to support the amendment moved by my friend, Munindra Deb Rai Mahasai. In doing so, I beg to refer to the speech of Mr. Thompson who has said that there was a time—perhaps we know the time when people were barbarous—when the revenge was an eye for an eye, a tooth for a tooth and a dead body for a dead body. Now in recent times—I mean the 20th century —my friend Mr. N. K. Basu has said that after working the Indian

Penal Code for 70 years the British Government have now in this land failed to administer justice and have gone so far as to punish a person with death for his mere intention to kill. Mr. Armstrong has, in his speech said that even in England recently the heads of some persons were chopped off. Sir, he forgets the other side of the shield and that there was a time even in England when the King who was not pursuing constitutional means was beheaded. You also know, Sir, how the Magna Charta was signed by force. Therefore, the little said about the British history or English history the better. My submission is that in this land you now want to punish persons with death even for intention—I mean intention to free his land from the foreign yoke. Sir, it has been said that we are on the eve of reforms and that the reforms will give us, the sons of the soil, power to administer justice. If that is the real intention that you are going practically to give us power of ruling our own land, what is the use of punishing people only for the intention? I say that a man has no right to kill his brother man. If the law is that there should be a death sentence, it should be changed and I understand that a movement is already on foot to do away with capital punishment. My appeal to my Christian friends, as it has been made to them on several occasions in this House by Mr. Chatterjee, is that they must follow the example of Jesus Christ.

5-15 p.m.

My appeal to my British friends is, as it has been an appeal to them on many occasions from this side of the House by Mr. Chatterjee, that they must follow the example of Jesus Christ. Sir, definite suggestions have been asked for by Mr. Armstrong, and it has been said by other members that no suggestions have been given by members on this side of the House as to how we can get rid of this situation. I must say, Sir, that suggestions have been given times without number from this side of the House. Mr. Reid, while introducing the Bill, suggested the other day that there has been about half a dozen murders of Government officials from December, 1931 up till now, and, therefore, there is some justification for the introduction of such measures. I may say, Sir, that I would request the Hon'ble Member and also other members of this House to look to the other side of the picture as to how this movement went on since the passing of the Act in 1925. The Act was re-enacted five years after in 1930. The movement has been going on and nothing has been done to check it. My point is that the Government officials have been murdered by some people—call them terrorists if you like, and the Hon'ble Member has said that there has been no provocation to commit these murders, but I can say, Sir, that there has been sufficient provocation. The provocation is there in the shape of——

Mr. PRESIDENT: Order, order, what are you driving at, Mr. Banerji? Are you justifying these murders or attempts at murder?

Mr. P. BANERJI: No, Sir. The same question was asked of me last time as well by the Hon'ble Mr. Prentice and yourself when I referred to this subject. I refuted the argument that we do not support murder but what I now want to say is that we do not at the same time like that there should be the repetition of these murders. Sir, we who claim to be the popular representatives do not like that the Britisher who is destined some day, sooner or later, to leave this land of ours should be murdered——

Mr. PRESIDENT: Let me give you some directions, Mr. Banerji. What are the issues before the House at the present moment? It is more or less this: whether terrorists who attempt to murder a person, no matter whether he is an official or a non-official, should or should not be punished with death. That is the only point we are considering now. There is no question of provocation or freeing the country of the Britisher or things like that.

Mr. P. BANERJI: I was just suggesting to this House by this amendment that we must do away with the punishment of death for an attempt at murder. It has been suggested by a section of the people that we here by our speeches on similar Bills have been encouraging the terrorists to commit murder. I refute that argument, Sir. We never did that. Our suggestion has been that by this action of the Government, the terrorist movement is daily increasing, and the passing of such an Act, I mean punishing of such people with death will be a terrible thing. Sir, to err is human, and it will be found that there will be persons who have attempted murder, and if such men are brought to trial and punished with death, the result will be that people will naturally have sufficient provocation to take the law into their own hands and retaliate. Sir, my point is that such murder is daily increasing. I shall just attempt to suggest to the Hon'ble Member that the reason why these Government officials have been murdered, which we all condemn, has never been examined before——

Mr. PRESIDENT: We are not concerned with that, Mr. Banerji.

Mr. P. BANERJI: If this law is passed——

Mr. PRESIDENT: Order, order. You are not following the advice I gave you, and you are talking on matters that are wholly irrelevant.

Mr. P. BANERJI: My point is that the death penalty will worsen the case. Therefore, I support the amendment.

Dr. NARESH CHANDRA SEN GUPTA: Sir, considering the very seriousness of the question discussed, it will not perhaps be proper for me to feel amused at the attempt of Mr. Thompson to elucidate the history of criminal law. He has said that the history of criminal law shows that intention is becoming more and more important, and, therefore, where the intention to murder is present, action would, in his opinion, be immaterial. Well, Sir, however much Mr. Thompson may have discovered that in the history of criminal law, intention is becoming material, if he has carefully studied the history, he must also have discovered that intention is never enough. A man may intend to kill another man, he may go further and prepare for killing that man; and then at the crucial moment some unforeseen accident will prevent him from taking action. It may be that the revolver has not gone off or perhaps he is struck with paralysis, would you convict him of murder and pass a sentence of death? Is that not very drastic? I am sure it is. The intention is not the whole of the crime. Intention must have been followed by the act, and it is the nature of the act which aggravates the offence. Mere intention, without really serious and grave consequences, is never considered a grave offence. Mr. Thompson has studied the history of criminal law, but perhaps it has never struck him that the whole course of that history has been to humanise punishment. He has referred to that ancient *lex talionis*, the law of an eye for an eye and a tooth for a tooth, and he has referred to that to point out merely that there the intention was absent, and in modern law the intention is present. A stronger moral is, however, that we do not now take an eye for an eye and a tooth for a tooth. The law has been humanised. Punishment, retaliation and compensation, every thing has been more humanised. Therefore, there has been an increasing tendency to make the punishment less drastic. When the punishment becomes too severe, the effect of it is just the reverse of what we want to produce. We punish people in order that other people may be deterred from doing similar things. But if trivial offences are severely punished, it causes just the opposite feeling—a feeling of tremendous resentment. Of course, we are not now dealing with trivial offences, attempt to murder is not a trivial offence. But if even an attempt to murder, an unsuccessful attempt to murder, is looked upon as the same thing as murder, that will cause a certain amount of revulsion of feeling which has got to be considered. It will make other people more desperate, and that is a thing which cannot be left out of consideration.

Then there is another thing. There is always the possibility of miscarriage of justice. There is the possibility always of a mistake in

a judgment. Well, when that mistake results in punishing a man, there is sure to be resentment. But when that mistake results in punishing a man with death, the reaction is terrible. These are the things which should be considered. We do not want to save the terrorists. We do not want, out of humanity, to save a man who wants to take another man's life. We are merely concerned to see what the effect of imposing death sentence upon him would be upon the mind of the people generally. Sir, the criminal law should not be too terrifying, it ought to be sufficiently terrifying, but not too terrifying.

As a confirmed believer in the abolition of capital sentence, I am naturally opposed to this. But if capital sentence must remain, it has some justification where a life has been actually taken; but I am strongly opposed to any attempt to take a life when no life has actually been taken.

Mr. B. C. CHATTERJEE: In the old days, in England in the 16th century, there was a very learned treatise which we all know by the name of "Coke upon Lyttleton", and I think, following more or less that precedent, the House might go into a study this evening of Chatterjee upon Banerji. I will just try to make clear what I think is the underlying idea behind the oration which my friend Mr. Banerji delivered a little while ago. The whole point is this: with great respect to the Hon'ble Home Member I must say that he starts with a wrong premise when he says that he wants to institute a sentence of death for an attempt to murder in order that it might have a deterrent effect. Now people go out to murder, they do not go out to attempt to murder, and therefore the sentence of death which is awardable against murder is a sufficient deterrent to keep back people who do not want to die from committing murder. But no question of a deterrent arises in relation to an offence of attempt to murder. An attempt to murder is purely an accidental matter. The particular person intends to murder, but it may happen by that owing to the intervention of extraneous circumstances, some check or some accident or something over which the would-be murderer had no control, his attempt is not effective, then it becomes an attempt to murder. Therefore, the real deterrent against all murderers is the punishment provided against murder, namely, the punishment of death. The law takes into account at the same time the sanctity of human life, and when it finds that a man who wanted to murder somebody has not succeeded in murdering that person, it intervenes and says that the state will give this human being another chance. The law will not in the circumstances want to wipe him out; it will not kill him. Since he has failed to murder, it will give this man a fresh chance of a moral renewal. That is what is at the back of the punishment of ten years provided in section 307, Indian Penal Code for an attempt to murder.

Everybody breathes a sigh of relief when a man fails in his object, and the law says: "Thank God, the man has failed; we give this man another chance of a moral rebirth. We put him in prison for ten years during which period he may reform himself."

5-30 p.m.

But the point that I would specifically make is that the question of deterrent punishment has no relevancy at all in relation to the offence of attempt to murder. And the Hon'ble Home Member must have been advised by his legal advisers as to what is an attempt according to the definition of the Calcutta High Court. An attempt happens when a man has done all he could to commit the actual offence and has failed. Therefore there can be no special deterrent in the shape of a particular sentence against an attempt. Are you not satisfied with the sentence of 10 years? Well, make it then transportation for life, but do not rob a man of his life for an attempt to murder. After all, we have walked long enough and far enough along the pathway of the spirit to realise that we must take nobody's life. We now all realise that to take a man's life because he has taken somebody's life is really something barbarous which has not the sanction of the religions we profess. But being aware at the same time how very limited in our capacity we poor human beings are, we find ourselves compelled to visit the offence of murder with the punishment of death in order to ensure the ordered existence of human society. But we are not going to trespass beyond the limit.

The whole question is, are we not trespassing into the region of vengeance if we say to a man "you have failed in your attempt, but your object was actual murder, and you must therefore, die". I am afraid we are leaving the proper sphere of law in taking up an attitude like this, and trespassing into the sphere which is not for man. We all remember the great words of the Hebrew Prophet "Vengeance is mine, saith the Lord, and I shall repay". Surely those words must for ever be ringing in the ears of him who aspires to be a lawmaker. Let him not trespass into the region which is not his, but which is of a Higher Power whose laws are inexorable which we can neither touch, nor change for the better or worse. I would conclude with the appeal to the Home Member to sit in judgment on himself in the sacred temple of his own conscience, and interrogate himself seriously as to whether he is not being betrayed into a measure which has its roots in the soil of vengeance.

Mr. H. S. SUHRAWARDY: After the very sanctimonious speech of Mr. B. C. Chattterjee, although his remarks were addressed to the

Hon'ble Member, I think it is the duty of every one to examine the sacred precincts of his own conscience for the purpose of arriving at a right decision on this question, and after doing that I regret I feel compelled to oppose the amendment. I do so because the times are out of joint, because we are dealing with an abnormal situation, an abnormal condition of things and an abnormal atmosphere. I do so because we have not been able to cope with the situation under the ordinary law. I, therefore, desire to place a certain consideration before these members of the House who are supporting the amendment—a consideration which some of them seem to have forgotten and which I particularly desire to place before them, because if we only regard the question from a lawyer's point of view, all our instincts must rise against the proposition put forward by the Hon'ble Member. It is this: Are we dealing with ordinary murderers? Are we going to apply to them the same criterion which should apply to ordinary individuals, who attempt to commit murder but have failed in their attempt to murder probably because of some unforeseen circumstances outside their control? The people that we are dealing with to-day are those who have different motives altogether, they are not actuated by ordinary motives, the usual social motives with which all Penal Codes deal. They are the members of a group of an organised body that is out to kill innocent people, after due premeditation and in a cold-blooded manner. They are the members of a vast conspiracy whose members are unknown. It is a fatality that most of their victims are the very persons who have done their duty not only to Government but to the people. We can take the names of many, one after another, with regard to whom mention has been made in this House, who have befriended the people, whose memory is cherished by the public, yet they are the persons who have been the unfortunate victims. If we apply the ordinary canons of law to these people I will certainly support the amendment but we cannot do so. They are outside the pale of the ordinary law. As I have said, extraordinary powers are necessary for the purpose of dealing with an organised society of this nature and this is a matter which the hon'ble members who have supported the amendment have forgotten. These persons may be in power in the future. The Erskine-Childers of to-day, who was shot because he possessed arms, may be a De Valera to-morrow, but at the same time as long as those persons are against the present system of society, the present Government and the present constitution, they will have to bear the consequences.

Mr. B. C. Chatterjee stated that the normal trend of civilised nations was against the death penalty for such crimes. It is incorrect to say so, because we find that only a short while ago the death penalty has been imposed in Germany for organised lawlessness and at least 5 Nazis had been sentenced to death for murdering a Communist. One

of them possibly committed the offence but the others did not, still all of them have had to pay the penalty for the crime of one.

If we refer to the Indian Penal Code and consider its sacrosanct provisions I should like to place before the hon'ble lawyers who are referring to it one provision of the Code which makes all the difference in penalty when the accused is or is not associated with another. What is the justification of a person being liable to the death penalty when his companion kills a man, and he has himself been unable to do so, merely by the application of section 34, whereas if there is no one with him and he fails to kill he is not liable to the death penalty. Take the case of the man who has been sentenced to death on account of the murder of Mr. Douglas. That person it has been found did not actually fire the shot, another person did so but by the application of section 34, Indian Penal Code, he was sentenced to be hanged and it is not suggested that the sentence was wrong. But if that man was not in company with another person and had attempted to murder Mr. Douglas and had failed in doing so, it cannot be denied that so far as he is concerned his criminality is precisely the same as in the other case. There is only this difference that in the one case he had a companion who was successful in murdering, and in the other he had not. Why should not the man be let off in exactly the same manner whether section 34 is applicable or not? Although I sympathise with those who desire to follow the ordinary principles of the law, in view of the abnormal situation as I have already stated, I have no other alternative but to oppose the amendment.

The Hon'ble Mr. R. N. REID: In opposing this motion I do not propose to follow the last speaker into the ethics of penology nor in fact am I able to improve upon the very admirable exposition of the arguments against this amendment which have just been given to us. There are just two points which I should like to draw attention to. One is that this legislation is directed against crimes committed in connection with the terrorist movement only.

Secondly, as regards the penalty which it is proposed to impose under clause 2 of this Bill, it is simply the extension of the principle which underlies section 307 of the Indian Penal Code. That section already provides a punishment for attempt at murder. This clause provides an enhanced punishment in certain cases only—cases of attempted murder committed in furtherance of terrorist movement. I wish to add this also. It may be surmised from the tendency of some of the speeches that Government propose to make death the only penalty for attempt at murder. Nothing of the sort, Sir. The word used in the Bill is "may" and not "shall".

With these words I oppose the amendment.

The motion of Munindra Deb Rai Mahasai was put and lost.

Mr. P. BANERJI: I beg to move that in clause 3 to the proposed proviso the words "or imprisonment for ten years" be added.

Sir, section 307 of the Indian Penal Code lays down that punishment for attempted murder is ten years' imprisonment. I do not know whether this is included in this clause which enhances the sentence to death or transportation for life. So I move this amendment.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I think my learned friend is under a misapprehension. As I read this clause, it provides in addition to the punishment under section 307 the punishment of death or transportation of life, that is to say, if a man is convicted he may be sentenced to imprisonment for ten years or transportation for life or death. If that is so, I do not think this amendment is necessary.

The Hon'ble Mr. R. N. REID: Sir, I oppose this motion on the ground adduced by Dr. Sen Gupta. This punishment is already included in section 307, Indian Penal Code.

The motion of Mr. P. Banerji was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

The motion was put and agreed to

Clause 4.

Mr. PRESIDENT: The question is that clause 4 stand part of the Bill.

The Hon'ble Mr. R. N. REID: I beg to move that in clause 4 for proposed section 8A, the following be substituted, namely:—

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"8A. (*1*) In any trial by commissioners appointed under this Act, the commissioners may, if they think fit, order at any stage of the trial that the public generally or any particular person shall not have access to, or be or remain in, the room or building used for the trial.

(*2*) Where in the course of any such trial, the Advocate-General certifies in writing to the commissioners that it is expedient in the interests of the public peace or safety, or of the peace or safety of any of the witnesses in the trial that the public generally should not have access to, or be or remain in, the room or building used for the trial, the commissioners shall order accordingly."

Sir, the object of this amendment is to substitute the word "commissioners" for the word "court". This is really a matter of verbal alteration.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I beg to move that in clause 4 for the proposed section 8A, the following be substituted, namely:—

"8A. In any trial by commissioners appointed under this Act, the commissioners on their own motion or on the application of the Public Prosecutor appointed in the case, may, if satisfied that it is expedient in the interests of the public peace or safety, or of the peace or safety of any of the witnesses in the trial that the public generally or any particular person should not have access to, or be or remain in the room or building used by the court, order at any stage of the trial that the public generally or any particular person, shall not have access to, or be or remain in the room or building used by the court.

The inquiry for making such an order need not be made in the presence of the accused persons."

Sir, we find that in the draft Bill clause 8A has been divided into two parts—the first portion 8A (*1*) deals with the power of the commissioners to exclude the public from the place where the trial is being held, while the second portion 8A (*2*) gives power to the Advocate-General whose certificate will be considered as almost a *fiat* under which the commissioners shall be bound to exclude persons so suggested. I am taking exception to this extraordinary power being given to the Advocate-General or to any other person but the commissioners who form the judiciary. The commissioners who would be appointed by the Government and would be placed in charge of the judiciary ought to be the final authority for deciding whether the public should be allowed to remain there; or they should be excluded. When the Criminal Law Amendment Bill is going to be an Act in spite of the opposition of the public, we ought to try to reduce the rigours of the law as much as possible and make its provisions acceptable with that view I have brought this amendment. I hope the Hon'ble Home Member will kindly consider it from that viewpoint. Personally I do not object to the Advocate-General being depended upon in a case like this, but the public would not like that a Public Prosecutor in far off places should send a note to the Advocate-General and the Advocate-General depending upon that note and, upon the information obtained from such Public Prosecutor, should issue a *fiat* which would be so powerful as even to undo the decision of the commissioners acting as judges. If one will take the trouble to refer to the last line of clause 8A (*2*) he will find the word "shall"—"the court 'shall' order accordingly". I am not a lawyer, but on ordinary understanding I think I am right that the court will have no option but to

accept the proposal of the Advocate-General and shall have to exclude the public whether it likes it or not or whether the order is justifiable or not. Over and above this the Public Prosecutor of a second class or third class town may ask the Advocate-General living in Calcutta to issue that *fiat*. The Advocate-General, however high an official he may be, will have to depend in such cases upon information brought to him through the note of the Public Prosecutor. The Public Prosecutor may be a good and reliable man and he may know the local conditions much better than the Advocate-General. What I have suggested in this amendment is that the Public Prosecutor might write a note and send his proposal, but the final decision shall not lie with the Advocate-General but with the commissioners who act as judges. If the Hon'ble Home Member wishes to take away the right of the judges to decide whether the public should be excluded or not and to enjoin that they must accept the suggestion of the Advocate-General without questioning, we ought to protest. When I was reading this clause I was surprised to find that the judges had been superseded by the Advocate-General. That is the reason why I have moved this amendment.

Rai Bahadur KAMINI KUMAR DAS: I take strong objection to Rai Bahadur Dr. Haridhan Dutt's amendment. We live in constant fear nowadays specially while any trial takes place before a court. Experience tells us that danger comes to the judge, party and witnesses at any time quite unexpectedly. To make inquiry is to give notice to the evil-doers to be on their guard. I do not find any reason why the inquiry need be before the accused person. We do not require any provision for it because the danger may come from outsiders and from the accused. Again he seems to do away with clause 8A (*2*). Once on the first sight I was also of that opinion but on second consideration I have changed it.

The judge who sits in court to decide cases on evidence may not always know what is going to take place in court or outside. The police who is in charge of maintaining peace and looking after the safety of courts, parties, witnesses and others and who are always on the alert may get information which they cannot take to court at once but which they can reach to the Public Prosecutor or Advocate-General and secure an order from him. The court, if something untoward happens, will not be responsible to any one, whereas the police will be always responsible and if they can show and prove that they had given timely information to the Public Prosecutor in time then his responsibility is lessened. I, therefore, think that clause 8A (*2*) is very essential and should be made statutory.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I oppose this motion because I think that after the experience that we have had I should place

greater reliance on the Advocate-General than on the judgment of the commissioners. Apart from that, I would go further and give Mr. Reid the clause he wants without any amendment if he undertakes to place a microphone in the court room with an apparatus for broadcasting the proceedings to the outside public.

6 p.m.

Khan Bahadur Maulvi AZIZUL HAQUE: I am afraid, Sir, my friend the Rai Bahadur has misunderstood this clause. At one time, Sir, I too was under the impression that it was proposed to place the Advocate-General over the Judges of the High Court. It seems to me that it is the first clause by which commissioners have the power to exclude the general public or any particular person to have access to any room where the trial is held, but I think the authority of the Judges will not be interfered with at all by the second clause. There may be circumstances in which it would be desirable in the interest of the case and in the interest of the accused that the court should not know that attempts have been made by outsiders to tamper with the evidence and things of that nature. It is after all not a jury trial. If it were so, I should have at once gone to the court and asked for clearance of the court room. But it is not a jury trial and the court itself will have to decide the questions of fact. If attempts are made to tamper with the evidence, it is possible that the court might form a wrong impression about the accused and from that point of view, I think it is in the interest of the accused that the court should know nothing except that the Advocate-General who is the man to scrutinise the matter and come to a finding has advised to that effect. Accordingly from this point of view I consider the amendment of the Rai Bahadur to be not quite in order.

The Hon'ble Mr. R. N. REID: I rise to oppose this motion, and I would like to meet the mover's argument in this way. I quite see his point, that there should be a provision which gives the commissioners discretion to arrange for the exclusion of the general public or any particular person from their own court. The first part of the clause gives them this power. The second part is intended more specifically to provide for the safety of the public or of the witnesses. As the Khan Bahadur has pointed out, in connection with such trials there may be information which cannot be disclosed and which it may not be desirable to disclose, but which would make it necessary for certain persons or the public generally to be removed outside the court altogether. As I have said, Sir, this question has arisen in cases before, notably in the Chittagong Armoury Raid case and where it is a case of the safety of human lives Government consider that the discretion of clearing the court in this way or excluding certain persons from it

should not be left to those persons whose safety may be threatened. That is the reason for this clause and it is no question of the local Public Prosecutor sending a postcard to the Advocate-General and arranging this somewhat serious matter in any hole and corner way. As I imagine it, the procedure would not be at all of this kind. The information obtained by the local officers whatever it was, would no doubt be passed on to the Advocate-General but, in a matter like this, he would certainly not act except under the orders of the Local Government, and it is in view of his position as the highest legal adviser of Government that the Advocate-General has been given this power by this clause. I think, Sir, this perhaps will make the purpose of this clause a little more plain.

Rai Bahadur Dr. HARIDHAN DUTT: I beg leave to withdraw my motion, Sir.

The motion was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: I intend to put the Hon'ble Mr. Reid's amendment first; but, I would like to remove any misapprehension that may exist in any quarter to the effect that if this amendment is accepted it will automatically wash out all the other relevant amendments. I may say that this is not the case. Mr. Reid's amendment may be accepted by this House without any prejudice to the rest.

The motion of the Hon'ble Mr. R. N. Reid was then put and agreed to.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 4, in line 3 of the proposed section 8A (*1*), the words "the public generally or" be omitted. I have proposed the deletion of the words "the public generally or" advisedly. If you like you can restrict any particular person to have access to the room where the trial is held or from the building itself if there be any reasonable cause of suspicion against him. But to exclude the public generally is objectionable from various points of view. Sir, many things are possible when trial is held within closed doors. Instances of accused persons tortured to become approvers are not few in this country, and tutored witnesses also are not wanting, they will have a merry time of it while deposing quite free from public gaze. The presence of the public during trial, serves a very useful purpose. Their presence sometimes serves as a very healthy check on witnesses giving false evidence during trials of cases. This sort of star chamber methods of trial may have been suitable in the early medieval age but it is quite unsuitable in the present civilised days.

The Hon'ble Mr. R. N. REID: I beg to oppose the motion. It seems to be based on a misconception of the situation, and I am afraid the hon'ble mover did not listen to the speeches that have been made on this Bill up to now.

The motion of Munindra Deb Rai Mahasai was then put and lost.

Mr. P. BANERJI: I beg to move that in clause 4 in the proposed section 8A (*1*), in line 4, after the words "particular person" the words "except lawyers, relations of the accused and persons interested in the conduct of the case" be inserted.

The Hon'ble Mr. R. N. REID: I oppose the motion, Sir.

The motion of Mr. P. Banerji was put and lost.

Mr. P. BANERJI: I beg to move that in clause 4, proposed section 8A (*2*) be omitted.

The Hon'ble Mr. R. N. REID: I beg to oppose the amendment, Sir.

The motion of Mr. P. Banerji was put and lost.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that in clause 4 in the proposed section 8A (*2*), in lines 1 and 2, for the words "the Advocate-General" the words "the District Magistrate or the Chief Presidency Magistrate in Calcutta" be substituted.

Here is perhaps another surprise for the Hon'ble Member in charge of the Bill. However much he may speak in support of his Bill I am not convinced why we should be dragging in the Advocate-General in a matter like this. Sir, I do not know exactly what the Advocate-General is expected to do. I think he advises Government on legal matters, but here there is no legal matter on which he may pass an opinion. The only point is this: we have to decide if such measures are necessary in the interest of law and order or of public safety in a particular case, and from this point of view I think the man who can pass an order or consider the matter with a sense of responsibility is the local district officer, the District Magistrate in the case of a *mufassal* town and the Chief Presidency Magistrate in the case of Calcutta. I do not know why Government have brought in the Advocate-General here. I think it would be more effective in practice if the District Magistrate were given the authority in this case. This responsibility should not be thrust on the Advocate-General who may not know anything of the local conditions and who will have to depend on the reports of the Police or of the Public Prosecutor. At least we should have sufficient confidence in the sense of responsibility of the District Magistrate to say that he does not pass biased orders.

The Hon'ble Mr. R. N. REID: I was glad to listen to the compliment paid by Mr. Shanti Shekhareswar Ray to the district officer on the floor of the House. But I am sorry I had not made myself sufficiently clear before as to the reason why the Advocate-General was named in this clause rather than any other officer, such as the District Magistrate, in whom Mr. Shanti Shekhareswar Ray seems to place such implicit confidence to-day. The point is that here we have a special tribunal constituted of selected officers of considerable experience for the trial of important cases, and it would not be right in the opinion of Government to hand over the discretion in respect of the exclusion of certain persons or the public generally from their court, to any officer other than the highest law officer of the Crown. Government cannot agree to handing over this discretion to the District Magistrate.

Sir, with these words I oppose the motion.

Mr. SHANTI SHEKHARESWAR RAY: In view of the explanation given by the Hon'ble Mr. Reid I beg to withdrawn my amendment.

The motion was then, by leave of the Council, withdrawn.

6-15 p.m.

The Hon'ble Mr. R. N. REID: Sir, I beg to move that in clause 4, for proposed section 8B (*1*), the following be substituted, namely:—

"8B. (*1*) Where any accused, in a trial by commissioners appointed under this Act, has by his voluntary act rendered himself incapable of appearing before the commissioners or resists his production before them or behaves before them in a persistently disorderly manner, the commissioners may, at any stage of the trial, by order in writing made after such inquiry as they may think fit, dispense with the attendance of such accused for such period as they may think fit, and proceed with the trial in his absence." Power to deal with refractory accused.

The motion was put and agreed to.

The Hon'ble Mr. R. N. REID: Sir, I beg to move that in clause 4, in proposed section 8B (*3*), in line 5, for the words "in court" the words "before the commissioners" be substituted.

The motion was put and agreed to.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I beg to move that in clause 4 after proposed section 8B (*3*) the following be inserted, namely:—

"(*3a*) The commissioners appointed under the Act shall after making proper arrangement for their safety, examine the accused whose attendance has been dispensed with under sub-section (*1*) either in the court

or in the jail, under section 342 of the Code of Criminal Procedure, 1898, after explaining to such accused, the evidence and circumstances appearing against him in the course of the trial."

Sir, I do not want to take up much time but I would only say in support of my amendment that section 342 of the Code of Criminal Procedure is considered to be sacred safeguard. I happen to have some experience of criminal trials in Calcutta and I have noticed that this examination under section 342, Criminal Procedure Code, is considered by those interested in the accused as particularly a matter of privilege for the accused. You are going to do away with that privilege. I admit, here there is some justification, because the accused of his own accord is putting obstacles in the way of his being examined under that section. But, Sir, knowing all that, I still appeal to the Hon'ble Home Member to see if he can find his way to allow this privilege to be exercised by the Judge and carry out his duty even under adverse circumstances. I do not think that it is impossible and the Judge may go over to the accused wherever he may be, even in jail, and ask him whether he is guilty or not, and whether he has anything to say in his defence after the evidence that has been recorded against him. I am asking that the accused should be given this opportunity. If he misbehaves or does not respond to the Judge, that is his business, but the Judge has to carry out his duties enjoined on him and he ought not to be deprived of his opportunity of examining the accused. That is why I am suggesting that in such cases where the accused is obstructive and does not come to the court, let the Judge go over to the accused and examine him under section 342. If the accused refuses to answer questions put to him by the Judge, he would harm himself and nobody else. I hope the Hon'ble Member will kindly consider my amendment in the spirit in which I have put it and see whether he can accept it.

Mr. NARENDRA KUMAR BASU: Sir, I am afraid that my friend, Dr. Dutt, has based his amendment on a misapprehension. The Bengal Criminal Law Amendment Act of 1925, section 7, says: "The provisions of the Code, so far only as they are not inconsistent with the provisions of, or the special procedure prescribed by or under, this Act shall apply to the proceedings of commissioners appointed under this Act, and such commissioners shall have all the powers conferred by the Code on a court of sessions exercising original jurisdiction."

Clause 8B (*1*) of the Bill says that the commissioners may dispense with the attendance of the accused for such period as they may think fit. Sub-section (*2*) of section 8B says that where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under the first sub-section, such accused shall be deemed not to plead guilty.

There is nothing either in section 8B or the amendment which says that the examination under section 342 may be dispensed with and I do not think, Sir, that Dr. Dutt's amendment is at all necessary; I think it would add to the complications. So far as the Code is concerned, section 342 is absolutely operative and I do not think that its application has been done away with under the Bill.

The Hon'ble Mr. R. N. REID: Sir, I am not prepared to accept Mr. Basu's interpretation of the law or on the other hand not to accept it. The only point that I would like to make is this. I quite appreciate the Rai Bahadur's point but I do think that his solicitude for the accused is somewhat misplaced. I think if he had been present during the Chittagong trial and seen and heard how the accused misbehaved, he would not be at all solicitous for the accused. The only point in this clause is to deal with an accused who in the course of the trial has voluntarily rendered himself incapable of appearing or behaves persistently in a disorderly manner. As regards the suggestion that we should put it in the Act that the commissioners should examine the accused wherever he may be whether in jail or in custody, I think it is open to a certain amount of criticism on the ground that you have three Judges going into the jail to see a single accused in his cell where there would be nobody except policemen and jail warders and where all sorts of things might happen. So I think there are dangers on the other side as well. In any case, I have to oppose this amendment.

The motion of Rai Bahadur Dr. Haridhan Dutt was then put and lost.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that clause 4, proposed section 8B (*4*) be omitted.

The clause runs thus—

"Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no finding, sentence or order passed in a trial by commissioners appointed under this Act, shall be held to be illegal by any court by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (*1*)."

Sir, it is a very strange proposition that sentence or order passed in a trial by commissioners shall not be held to be illegal by any court by reason of any omission or irregularity whatsoever even if it has occasioned failure of justice. The word "whatsoever" is significant. Comment on this is needless.

Mr. NARENDRA KUMAR BASU: Sir, I beg to support this amendment. It seems to me that you punish, or rather penalise, the

accused doubly, *viz.*, firstly, you do not take his plea and, secondly, you make his abstention from attending his trial legalise all that is done in his absence. If the accused are absent, then under this clause the commissioners may flout every provision of every law, *viz.*, the law of procedure, the law of evidence and everything and still the finding, sentence and order shall not be held illegal. I think it is giving too much importance, if I may say so, to the absence of the accused persons and inviting the commissioners, who are to be the chosen of the executive, to do whatever they please without any restraint.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I support this amendment. The effect of the fourth clause is practically to have a trial without the essentials of a trial. There is no sense in having the ceremony of a trial, if the trial is not for the purpose of ascertaining the truth and doing justice to the accused in such a manner that the accused shall know that justice has been done. That, Sir, has been the principle upon which the whole British Criminal Procedure Code, which we follow, has been based. In place of that, you are substituting a procedure which will not serve the purpose it is intended to serve, whatever other purpose it may serve. If it is wanted that some decision should be arrived at, it might just as well be done absolutely *in camera* without the formalities of lawyers and examination of witnesses.

[At 6-30 p.m., the Council was adjourned for prayer and it reassembled at 6-45 p.m.]

Dr. NARESH CHANDRA SEN GUPTA: The effect of this clause together with sub-clause (*i*) which we are now considering is very drastic. It deprives a person who comes under this category of all protection and all the safeguards against all errors and all injustice which the Code of Criminal Procedure is designed to provide. Sub-clause (*i*) provides that "if there is any omission or irregularity whatsoever, no matter how grave and serious, no matter whether it may lead to an absolute failure of justice, any omission or irregularity whatsoever which has been occasioned by the absence of the accused, etc." So far as the absence of the accused is concerned, that would not be an irregularity under clause (*l*). The mere absence of the accused would not be an irregularity where an order has been passed under sub-clause (*l*). For that purpose, sub-clause (*i*) is not necessary. But if by reason of his absence the court has been led into omissions and irregularities, then those irregularities, however great, would not vitiate the conviction. Well, Sir, this amounts to saying that the moment a person comes under this category which will make sub-clause (*l*) applicable to him, practically every protection of the law of procedure is withdrawn, and that is precisely what the Hon'ble Mr. Reid said recently that a man who behaves in this manner puts

himself outside the law. Well, that is putting the clause in all its nakedness. The man puts himself outside the law; well, if that is the idea, I do not understand the necessity of all this elaborate procedure, this futility of a trial with all its paraphernalia in the absence of the accused. What is the justification for this idea? The justification is said to be this that they are not ordinary criminals, they are not ordinary men but terrorists. Well, Sir, that assumes a thing which we, as lawyers, have always learnt should not be assumed. Assuming that the offence has not been proved against him—until the offence has been proved against him, you are to consider the person to be innocent of the crime with which he is charged; he is not yet proved to be a terrorist. Therefore, you cannot justify the clause on the ground that these persons are terrorists. Now, it may be that a man may behave himself very improperly in a court, a man may make himself incapable of appearing in a court and may behave in a perfectly disorderly manner without being really guilty of the offence with which he is charged, without even being really a terrorist. If he is not charged under this Act in respect of a terrorist offence, then in spite of every thing, he will have all the protection of the Code of Criminal Procedure, that is to say, supposing a man is accused of the grave charge of murder, and he behaves himself in the court in a manner in which sub-clause(*l*) of clause 8B is applicable, then his attendance could be dispensed with if he had committed a terrorist offence; but if he has not committed a terrorist offence, then the court will have to follow the procedure laid down in the Criminal Procedure Code, and why? What is the basis of this difference? It is that here we are dealing with the terrorists, that is to say, because you are dealing with terrorist offences, you must start with the assumption that he is a terrorist. I submit that does not follow from the mere fact that the man has been making them incapable of appearing before a court and behave in a persistently disorderly manner. It must be remembered that there are other offences than terrorist ones which are as serious, but in spite of that if an accused person behaves in a manner provided in this Act, the legislature does not provide any special remedy for that. Well, Sir, if the answer to all this is that after all they are terrorists, and if, as a matter of fact, you are so much satisfied about that, then, as I have already said, what is the necessity of this futile trial? If you are satisfied that the man is a terrorist, and you do not want to go through the ordinary procedure of law to prove that, why not make a short cut? If you think that the man has placed himself outside the law, a much simpler more honest and a more elegant method would be to go back to the ancient times, and find your remedy in the law of outlawry.

Mr. B. C. CHATTERJEE: The first thing which strikes me in reading this clause is that I cannot imagine anybody, who has been trained in the principles of law, as illustrated by the decisions of the

Calcutta High Court during the last half a century or more, drawing up sub-clause (*f*). I do not know, Sir, if the drafting of this clause is an importation from outside or whether any official of the Government of Bengal is responsible for it. I would like to think, Sir, that it comes from somebody outside Bengal. We all know that in the administration of the law, there is a great distinction between the way in which it is administered in Bengal and the way in which the law has been administered outside Bengal. Anybody having experience of the administration of law in Bengal, going outside Bengal and appearing in any court outside Bengal, feels himself almost in a strange land when he hears the enunciation of principles which he never heard in Bengal, and of doctrines which would be impossible in Bengal. For example, Sir, the Allahabad High Court would string a man up unceremoniously on a charge of murder on no better evidence than the uncorroborated testimony of an approver. It has never been done in Bengal; but it has been done in most of the provinces outside. Next, I say, Sir, looking at the draftsmanship of this clause, I refuse to hold the present Legal Remembrancer or even his predecessor responsible for it, and I do ask the members of the Indian Civil Service in Bengal to adhere to their own traditions, and not import non-Bengali methods into their projected legislation, or drafts of legislation.

The next point is, as my hon'ble friend Dr. Sen Gupta says, you cannot have civilisation and barbarism flourishing side by side. You cannot have courts of law administering justice and outlawing the accused appearing before them at the same time. If you put a man before a court of law, then you have got to try him. You cannot treat him as an outlaw. How can anybody who has come to a court of law be denied the law as this sub-clause aims at doing? These words are so strange, Sir, that they fall on the ear with a distinct jarring effect, the words, namely, "Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no finding, sentence or order passed in a trial by commissioners appointed under this Act shall be held to be illegal by any court by reason of any omission or irregularity whatsoever....."

What is this? I submit with the greatest respect that the word "whatsoever" must be crossed out mercilessly, or the procedure laid down in the draft now to be passed be altogether abandoned. The only other alternative would be to abandon British procedure altogether, and model yourself on something more akin to what you are seeking. For example, there is a very useful and ancient Code of law, known as the Code of Hammurabi—I do not know if the Hon'ble Member is acquainted with it—a very famous Code enacted by an Assyrian Emperor of that name. The Code was dug out long ago by a famous archæologist. I may say that the word "whatsoever" is distinctly

Hammurabian in its intent and purpose. Now that scholars are discovering a great affinity between Assyrian and Indian——

Mr. PRESIDENT: Mr. Chatterjee, how do you spell that mountainous word. (Laughter.)

Mr. B. C. CHATTERJEE: H a m m u r a b i.

Mr. W. H. THOMPSON: I think the spelling is with one "m".

Mr. B. C. CHATTERJEE: I know Mr. Thompson is a wrangler but I refuse to wrangle with him over spelling. As a matter of fact he is wrong.

As I said, we have found that there is an unsuspected affinity between Hammurabian civilization and Indian civilization. We find from the extensive digging at Mahenjo-daro that Indian and Assyrian civilizations had at one period of history run on parallel lines; and I congratulate the Hon'ble Member on the admirable historical sense he has shown by linking on his proposed legislation to Hammurabian principles. But you are as far from the British principles as the two poles are from each other. I challenge the Hon'ble Mr. Reid to put in these words "even on occasions of failure of justice" in place of "reason of any omission or irregularity whatsoever" and carry it through this House. I think the non-official European members would even refuse——

Mr. NARENDRA KUMAR BASU: They will not understand the illegality.

Mr. B. C. CHATTERJEE: You spoil my appeal right at the very beginning.

Just think of such a provision in a piece of British legislation. (A VOICE: The Tories are in power.) I do not see any occasion for jocularity. Some people seem to think that I am trying to prolong the discussion; they have made as wrong a guess as they could.

There is only another matter which I would bring to the notice of the Hon'ble Member in charge and Mr. Henderson will bear me out that sometimes we get commissioners who do not know the ordinary spelling of the word and in one of the cases in which I appeared before a tribunal consisting of Mr. Henderson and two other elevated gentlemen—two Deputy Magistrates, Mr. Henderson had to dictate the spelling to them. That being so and we being at the mercy of these men I do ask Mr. Reid to make an improvement in clause 4 and accept the sort of proviso as this so that no injustice is done.

The Hon'ble Mr. R. N. REID: Without following Mr. Chatterjee into the wilds of Mahenjo-daro or the intricacies of the code of Hamurabi, I beg to oppose the motion.

The motion of Munindra Deb Rai Mahasai was then put and lost.

Mr. NARENDRA KUMAR BASU: May I with your permission move the amendment standing in the name of Rai Bahadur Dr. Haridhan Dutt?

Mr. PRESIDENT: Yes.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 4, in the proposed section 8B (*4*), in line 4, after the word "court" the words "other than the High Court" be inserted and at the end the following be added, namely:—

"unless such omission or irregularity whatsoever has occasioned failure of justice".

It is well known to all that section 537 of the Criminal Procedure Code, like the wellknown Holloway's Pills, cures all judicial defects. But even that section says that unless in the opinion of the court of appeal failure of justice has been occasioned thereby, the irregularity would not be deemed to be cured. It would really be giving a blank cheque to the commissioners unless these words were added. I do not think, as my friend Mr. Chatterjee said a few moments ago, that it is the intention of the Local Government or the Hon'ble Member to say, that notwithstanding any omission or irregularity, the trial will be held to be legal even if such omission or irregularity has occasioned failure of justice. I am confident that the Hon'ble member will accept my amendment.

The Hon'ble Mr. R. N. REID: I am afraid I cannot accede to the hon'ble member's request. I must oppose this motion also.

The motion of Mr. Narendra Kumar Basu was then put and lost.

Mr. PRESIDENT: The question is that clause 4, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 5.

Mr. PRESIDENT: The question is that clause 5 stand part of the Bill.

The motion was put and agreed to.

The Preamble.

Mr. PRESIDENT: The question is that the preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Mr. R. N. REID: I beg to move that the Bengal Criminal Law Second Amendment Bill, 1932, as settled in the Council, be passed.

The motion of the Hon'ble Mr. R. N. Reid was put and a division taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Basir Uddin, Khan Sahib Maulvi Mohammad.
Blandy, Mr. E. N.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Sushil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Kerr, Mr. W. J.
Khan, Maulvi Amin-uz-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Leeson, Mr. G. W.
Maguire, Mr. L. T.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Nag, Reverend B. A.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja
Philpot, Mr. H. C. V.
Rahman, Mr. A. F. M. Abdur-.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Ross, Mr. J.
Roy, Mr. Sailesvar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijay Prasad Singh.
Sarker, Rai Sahib Rabati Mohan.
Sen, Mr. B. R.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Stapleton, Mr. H. E.
Suhrawardy, Mr. H. S.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

NOES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nural Absar.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Mookerjee, Mr. Syamaprosad.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Poddar, Seth Hunuman Prasad.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Roy, Babu Haribansa.
Roy, Babu Satyendra Nath.
Sen Gupta, Dr. Naresh Chandra.

The Ayes being 55 and the Noes 18 the motion was carried.

Adjournment.

The Council was then adjourned till 3 p.m., on Friday, the 2nd September, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Friday, the 2nd September, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 112 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Contractors.

*199. **Maulvi TAMIZUDDIN KHAN:** (*a*) Will the Hon'ble Minister in charge of the Department of Public Works be pleased to lay on the table a statement showing during the years 1929-30 and 1930-31—

(*i*) the names of 1st class, 2nd class and 3rd class contractors in the Calcutta First Division, Calcutta Second Division and Calcutta Third Division;

(*ii*) the number of works given to each;

(*iii*) the amount of each work;

(*iv*) the total amount of work given to each;

(*v*) the number of Muslim, Hindu and Christian contractors in the aforesaid three divisions respectively; and

(*vi*) the distribution of works amongst the contractors of these various communities in those three divisions, (1) by inviting tenders, (2) without inviting tenders, and (3) on emergency?

(*b*) Will the Hon'ble Minister be pleased to state whether Muslim contractors are faced with any difficulties in—

(*1*) getting their names registered as contractors,

(*2*) giving works, and

(*3*) interviewing the Executive Engineers and their subordinates when necessary?

(c) Are the Government considering the desirability of delegating the powers of accepting or rejecting tenders and of distribution of works to a committee specially constituted for the purpose, as is done in the Calcutta Improvement Trust and the Calcutta Corporation?

MINISTER in charge of PUBLIC WORKS DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): (a) The compilation of the statement asked for will involve very considerable labour and time and Government are not prepared to undertake it.

(b) No; not as far as is known to Government.

(c) No: there appears to be no necessity for this step.

Maulvi SYED MAJID BAKSH: Will the Government be still not prepared to undertake the work if the information be necessary?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I do not consider that the information, if collected, will serve any useful purpose.

Khan Bahadur MUHAMMAD ABDUL MOMIN: With reference to answer (b) may I ask whether Government has made any inquiries about it?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I have had no complaint from anybody to hold an inquiry.

Libraries and museums.

*208. **Babu HARIBANSA ROY:** (a) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement showing for the last five years—

(i) the total income of,

(ii) the amount of the educational budget of, and

(iii) the particulars of the amounts paid to the various libraries and museums by

each of the municipalities in the province?

(b) Will the Hon'ble Minister be pleased to state whether there is any rule to call for the accounts of the libraries and museums receiving grants to exercise proper control over them?

(c) If the answer to (b) is in the negative, are the Government considering the desirability of framing rules for the purpose?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) (*i*) The information will be found in column 46 of Form II appended to the resolutions reviewing the reports on the working of municipalities in Bengal. Figures for 1931-32 are not yet available.

(*ii*) The educational budgets of municipalities are not submitted to Government. The amounts expended on public instruction will be found in columns 38-41 of Form III appended to the resolutions to which reference is made in the reply to question (*a*) (*i*).

(*iii*) Column 40 of Form III shows the total expenditure. No particulars are available.

(*b*) No.

(*c*) No.

Muslim post-graduate students' hostel at Calcutta.

*201. **Maulvi MUHAMMAD HOSSAIN:** Will the Hon'ble Minister in charge of the Education Department be pleased to state whether there is a hostel for the Muslim post-graduate students in Calcutta similar to the Hardinge Hostel which is exclusively meant for the Hindu graduates?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): There is no such hostel for Muslim post-graduate students.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Minister be pleased to tell us where post-graduate Moslem students at present reside in Calcutta?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Government have no concern with the accommodation of the post-graduate students. The University is concerned with them.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Is it a fact that a very large number of students live in Carmichael Hostel?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I believe some.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Is it not a fact that very recently it has been decided to turn them out of the Carmichael Hostel?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Again I say that action in such matters is taken by the University and Government have no concern in them.

Khan Bahadur MUHAMMAD ABDUL MOMIN: If that is so are the Government prepared to provide some sort of accommodation for Moslem post-graduate students?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Government are not concerned with post-graduate teaching and they are not responsible for the accommodation of post-graduate students. It is the concern of the University.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it not a fact that the interest of Moslem education will suffer if these post-graduate students cannot find suitable accommodation in Calcutta?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: That is so, but representation should be made to the Calcutta University.

Undertrial prisoners.

*202. **Dr. NARESH CHANDRA SEN GUPTA:** (*a*) Has the attention of the Hon'ble Member in charge of the Political Department been drawn to the strictures passed by the Sessions Judge of Dacca against the Public Prosecutor, the police and the jail authorities in the case against Jyotirmoy Sen, regarding the treatment of undertrial prisoners and the denial to them of facilities which they were legally entitled to?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state what action have the Government taken or propose to take on the observations of the learned Sessions Judge?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) Yes.

(*b*) The District Magistrate has taken steps in order to prevent irregularities in connection with remands to police custody in the future. Other points arising out of the order of the Sessions Judge are under examination separately.

Mr. R. MAITI: With reference to answer (*b*) will the Hon'ble Member be pleased to state what steps the District Magistrate has taken?

The Hon'ble Mr. R. N. REID: He has issued district orders regarding this matter.

Occupying private buildings by Government under the Special Powers Ordinance, 1932.

*203. **Mr. SHANTI SHEKHARESWAR RAY:** Will the Hon'ble Member in charge of the Political Department be pleased to lay on the table a statement showing—

(*i*) the names of the persons who have been ordered under the Special Powers Ordinance, 1932, to place the buildings in their occupation at the disposal of the Government in the different districts; and

(*ii*) the period and purpose for which the buildings have been required?

The Hon'ble Mr. R. N. REID: (*i*) (*ii*) A statement is laid on the table.

Statement referred to in clauses (i) and (ii) of starred question No. 203.

District.	Names of persons who have been ordered under the Special Powers Ordinance, 1932, to place the buildings in their occupation at the disposal of the Government.	The period and purpose for which the buildings have been required.
Tippera ..	Shyam Sundar Vidyaratna, Mudafarganj, police-station Laksam.	Occupied as quarters for police from 23rd July, 1932, to 30th July, 1932.
24-Parganas ..	(*a*) The National Primary School at Mahisbathan.	Occupied as quarters for additional police so long as the situation necessitates it.
	(*b*) Akra Bari in occupation of Abodh Banerjee at Jagadishpore.	Occupied as quarters for additional police for a short period. The house has since been released.
Chittagong ..	The Secretary of the Managing Committee of the Dhalghat H. E. School.	Occupied as quarters for military so long as the situation requires it.
Dacca ..	The house was vacant and the owner unknown.	Occupied as quarters for police from 4th July, 1932, so long as required.
Midnapore ..	(1) Babu Probodh Chandra Das of Sargat Bazar. (2) Babu Kishorepati Ray of Colonelgola. (3) Babu Atul Chandra Bose of Colonelgola. (4) Babu Debendra Lal Khan of Keranitola.	Occupied as quarters for additional police force for a period of one year.
Bankura ..	(1) Jagadish Palit .. (2) Sushil Palit. (3) Sudhir Palit and others of Betur, police-station Patrasayer.	Occupied as quarters for police force for as long as the situation necessitates this occupation.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if Government have paid any rent or compensation to any of these gentlemen?

The Hon'ble Mr. R. N. REID: Not up to now as far as I am aware.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state why only persons belonging to the Hindu community have been ordered to place their buildings at the disposal of Government?

The Hon'ble Mr. R. N. REID: I am not aware that premises belonging to Hindus only have been taken.

Mr. SHANTI SHEKHARESWAR RAY: Will he kindly look at the statement and say whether all these gentlemen are not Hindus?

The Hon'ble Mr. R. N. REID: Yes.

Dr. AMULYA RATAN GHOSE: Will the Hon'ble Member be pleased to state whether these houses have been occupied in spite of the fact there were other public buildings which could have been occupied?

The Hon'ble Mr. R. N. REID: I am not aware whether any public buildings were available there.

Mr. R. MAITI: With reference to the houses mentioned in the Midnapore district will the Hon'ble Member be pleased to state whether it is a fact that Babu Kishoripati Roy was the Chairman and Babu Atul Chandra Bose was the Vice-Chairman of the Midnapore Municipality which has been superseded by the order of Government?

The Hon'ble Mr. R. N. REID: I have no information on the subject.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Realisation of settlement costs in Malda.

108. Mr. SAILESWAR SINGH ROY: (*a*) Is the Hon'ble Member in charge of the Revenue Department aware that the landlords of the Malda district have been required to pay up their proportionate cost of the last settlement operations by the 31st October, 1932?

(*b*) Is the Hon'ble Member also aware—

(*i*) that in the present economic condition of the country the landlords all over this province have been very hard hit; and

(*ii*) that many estates have been advertised for sale for default in payment of revenue *kists*?

(*c*) Are the Government considering the desirability of extending the period of payment of the settlement costs in the Malda district and of taking steps for realisation in easy instalments as a measure of relief to the landlords concerned?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) No. The landlords of the Malda district have not been called upon to pay by the 31st October, 1932.

(*b*) (*i*) Government are aware that many of the landlords in the province are in difficulties.

(*ii*) Yes.

(*c*) No. When the amount payable is large, payment by instalments may be allowed.

Settlement kanungos.

101. Khan Bahadur MUHAMMAD ABDUL MOMIN: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether it is a fact that the scheme of making the service of Settlement kanungos permanent and pensionable was approved by Government in August, 1931?

(*b*) If so, has the scheme been given effect to?

(*c*) If the answer to (*b*) is in the negative, when do the Government propose to give effect to it?

(*d*) How many of the Settlement kanungos, who were eligible for pension, have retired within the last 2 years?

(*e*) (*i*) Are the Government considering the desirability of sanctioning their pensions without delay, or (*ii*) re-employing them till their pensions are sanctioned?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) The scheme was administratively approved by Government subject to funds being available to finance it.

(*b*) No.

(*c*) Government have not yet come to a decision on this point.

(*d*) Six would have been eligible under the scheme.

(*e*) (*i*) and (*ii*) No.

Khan Bahadur MUHAMMAD ABDUL MOMIN: With reference to answer (*c*) will the Hon'ble Member kindly state when orders may be expected on the subject?

The Hon'ble Sir PROVASH CHUNDER MITTER: I am afraid owing to financial difficulties it will take some time to come to a decision.

Khan Bahadur Maulvi AZIZUL HAQUE: With reference to answer (*c*) (*i*) will the Hon'ble Member kindly state why it is not considered desirable to re-employ these officers even if they are fit for service?

The Hon'ble Sir PROVASH CHUNDER MITTER: I want notice.

Khan Bahadur MUHAMMAD ABDUL MOMIN: If these officers are not employed may I ask the Hon'ble Member how these officers are going to live.

The Hon'ble Sir PROVASH CHUNDER MITTER: They will have great difficulty no doubt.

Process-servers of Bakarganj.

102. Maulvi SYED OSMAN HAIDER CHAUDHURI: (*a*) Is the Hon'ble Member in charge of the Judicial Department aware that some process-servers who have not yet attained the age of 60 years are under order of discharge in the district of Bakarganj?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state—

(*i*) the number of such process-servers; and

(*ii*) the authority under which they are being discharged before they attain 60 years of age or are found unfit for further service?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) Yes.

(*b*) (*i*) 33.

(*ii*) The peons were discharged, as, according to the scale prescribed by the High Court, there was not sufficient work to justify their retention

Appointment of a lecturer in English at the Hooghly College.

103. Mr. SYAMAPROSAD MOOKERJEE: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) for how long was Mr. Taraknath Sen, M.A., a temporary lecturer in English at the Hooghly College;

(*ii*) what were his academic qualifications;

(*iii*) what was the report of the Principal of the Hooghly College on his work;

(*iv*) whether the vacancy in which he was working has been permanently filled up; and

(*v*) whether the Principal and the Governing Body made any recommendation in this connection?

(*b*) If the answer to (*a*) (*v*) is in the affirmative, what was such recommendation?

(*c*) Who has been actually appointed by Government to the post and what are his qualifications?

(*d*) When did this gentleman actually join his appointment?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) (*i*) From 21st December, 1931, to 23rd April, 1932.

(*ii*) He is a 1st class M.A. in English and a Gold Medalist.

(*iii*) The report is confidential and Government are not prepared to publish it.

(*iv*) No.

(*v*) Yes.

(*b*) Government regret they are not prepared to give the information.

(*c*) Maulvi Abdul Wadud, lecturer in English, Calcutta Madrasah, has been appointed to officiate. He is a 2nd class M.A. in English and has had experience as lecturer in English since November, 1930.

(*d*) 6th July, 1932.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Minister be pleased to state if it is a fact that Mr. Sen stood first in English at every University examination?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I want notice.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Minister be pleased to state what is the reason for not disclosing the report on the work of this professor by the Principal of the college?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Government are responsible for all appointments and any reports that come from the Principal are treated by Government as confidential and are never disclosed. The reports of the Governing Body are also confidential.

Mr. SYAMAPROSAD MOOKERJEE: May I enquire if the report of the Principal was unsatisfactory?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: That also I cannot say.

Mr. SYAMAPROSAD MOOKERJEE: Is it not a fact that the Governing Body unanimously recommended the appointment of this gentleman?

The Hon'ble Mr. KHWAJA NAZIMUODIN: That means disclosing the recommendation of the Governing Body.

Mr. SYAMAPROSAD MOOKERJEE: Is it not a fact that the Governing Body consisted of one Muhammadan gentleman?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: May be.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Minister be pleased to state how he justifies the appointment of this Muhammadan gentleman in view of his claim that Government colleges exist for the sake of efficient education.

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Both the appointments were justified on the ground that in 1926 Government issued a circular to the effect that provided the qualifications laid down in the circular were possessed by Muhammadans, Government in making appointments should see that a certain percentage of Muhammadans were appointed and in pursuance of that circular these appointments were made.

Mr. SYAMAPROSAD MOOKERJEE: Is it right that even if a gentleman had officiated in a particular post he should be turned out because he happened to be a Hindu?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: That is certainly not true. The appointment was temporary and a vacancy was there and it was filled up.

Mr. SYAMAPROSAD MOOKERJEE: In making the appointment did the Hon'ble Minister bear in mind that though he is a Moslem he is not the Minister for Moslem Education but for Education in general.

Mr. PRESIDENT: I do not allow that question.

Mr. SYAMAPROSAD MOOKERJEE: Are not the majority of the students of the Hooghly College Hindus?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The appointment has been made in pursuance of a Government circular issued in 1926.

3-15 p.m.

Mr. SYAMAPROSAD MOOKERJEE: Is the Hon'ble Minister aware that there is a demand on the part of Hindu guardians that their wards should receive instruction from the best of professors in that college?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No, I am not aware.

Babu AMULYADHAN RAY: Will the Hon'ble Minister be pleased to state whether it is not a fact that mere superior academic qualifications do not always make for superiority in the art of teaching?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Certainly, academic qualifications and teaching experience are both taken into consideration in making appointments.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Minister be pleased to state if it is the policy of Government to sacrifice the interests of students for the sake of the interests of individual members of a particular community?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Certainly not. But so long as a teacher possesses the requisite educational qualifications, the interest of students is not sacrificed.

Maulvi ABUL KASEM: Will the Hon'ble Minister be pleased to state whether the gentleman appointed as lecturer in English in the Hooghly College, was an efficient lecturer in the Calcutta Madrassah, and since his appointment in the Hooghly College has he been reported to be efficient and satisfactory?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Certainly, at the time of making the appointment his work was taken into consideration and his record was found to be good.

Babu JITENDRALAL BANNERJEE: Does not this, Sir, disclose official information, on the strength of which this appointment was made?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No, Sir. I have not disclosed any official information. I have only said that his record was good. I have not given out any recommendation of the Governing Body.

Babu JITENDRALAL BANNERJEE: Is it the opinion of the Hon'ble Minister that the Muhammadan gentleman whom he appointed was superior either in point of educational qualifications or in point of teaching capacity, to the man whom he rejected?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I have nothing further to add.

Mr. B. C. CHATTERJEE: Will the Hon'ble Minister still reconsider my suggestion of fifty-fifty?

Mr. NARENDRA KUMAR BASU: How long Government have been regretting their inability to supply informations as in the case of *(b)*?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: This is the case practically with all the departments of Government.

Mr. BYAMAPROSAD MOOKERJEE: Will the Hon'ble Minister be pleased to state that in view of the special and distinguished qualifications of Mr. Sen he will consider his claims with regard to a future vacancy?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: When a future vacancy occurs, his claims and qualifications will certainly be considered.

Babu JITENDRALAL BANNERJEE: Of course if a second class Muhammadan M.A. is not available to fill up the post.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Minister be pleased to state if all the professors and lecturers of Government colleges are first class M.A.'s?

(No reply.)

Ahsanullah School of Engineering.

104. Maulvi ABDUL GHANI CHOWDHURY: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) the year from which, through inadvertence, the four junior mistries of the Ahsanullah School of Engineering, Dacca, were being treated as having been permanently appointed; and

(*ii*) the year in which the Government acquiesced in this view of the case?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*i*) From the beginning of the session 1925-26, *i.e.*, from 1st July, 1925.

(*ii*) From 1925.

Usurious Loans Act and Agriculturists' loan in Bengal.

105. Maulvi ABDUL HAKIM: Will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*a*) Whether several thousands of petitions were submitted to Government to the address of the Chief Secretary last year asking for the immediate amendment of the Usurious Loans Act, so as to fix a fair and equitable rate of interest in it?

(*b*) Whether the attention of Government was drawn to the desirability of having the Usurious Loans Act amended by a cut motion at the Bengal Legislative Council session in the year 1931?

(*c*) Whether the Member in charge informed this house that the question of amendment of the Usurious Loans Act was discussed in the Legislative Assembly as the result of a resolution moved by Sir Muhammad Yakub, M.L.A., on the 17th September, 1931?

(*d*) Whether the Member in charge is aware if further action regarding the question of this amendment has been taken up in the Legislative Assembly since after that date?

(*e*) Whether it is a fact that interest at the exorbitant rate of Rs. 75 per cent. per annum was decreed by the Sadar second munsif's court, Mymensingh, in the years 1930 and 1931, a time of extreme economic suffering?

(*f*) Whether it is a fact that interest at this exorbitant rate of Rs. 75 per cent. per annum was decreed by the union court Akua of union board No. 8 (police-station Kotwali, district Mymensingh) in the years 1930 and 1931?

(*g*) Whether it is a fact that the rate of interest charged by Government on agricultural loans is only Rs. 6¼ per cent. per annum?

(*h*) Whether the local Government has realised—

(*i*) the absolute failure of the purpose for which the Usurious Loans Act was enacted; and

(*ii*) the consequent necessity for immediate amendment of the said Act?

(*i*) If so, whether the local Government have sent any recommendation to the Government of India till the present time, for the immediate amendment of the Usurious Loans Act?

(*j*) Whether the Government are aware of the approximate amount of the total debts incurred by the agricultural people of Bengal from the money lenders?

(*k*) If so, what is that amount?

(*l*) If the answer to question (*j*) is in the negative, are the Government willing to ascertain the amount by a thorough enquiry as soon as possible?

The Hon'ble Mr. R. N. REID: (*a*) A large number of applications were received.

(*b*) and (*c*) Yes.

(*d*) No.

(*e*) Interest was allowed in a few Small Cause Court cases at anna 1 per rupee per month. The principal amounts were small and there were written contracts for payment of interest at that rate.

(*f*) There was only one such instance during the years 1930 and 1931, when interest amounting to Rs. 2-12-6 out of a claim of Rs. 7-4-6 was decreed in a case heard *ex parte* by the Akua union court.

(*g*) Yes.

(*h*) (*i*) There is reason to believe that the Act has not wholly achieved the purpose it was designed to serve.

(*ii*) The matter is under consideration of Government.

(*i*) The matter is under consideration.

(*j*), (*k*) and (*l*) The Bengal Provincial Banking Enquiry Committee estimated the total agricultural debt in Bengal at 100 crores.

Point of information.

Babu JITENDRALAL BANNERJEE: May I rise on a point of information with regard to a matter of some importance to the members of this House, that the seat of our friend and colleague, Maulvi Jalaluddin Hashemy, a member elected by the Khulna Muhammadan electorate, has just been declared vacant. May I ask, Sir, whether you have received this information from the responsible quarters?

Mr. PRESIDENT: Yes, I have been informed.

Babu JITENDRALAL BANNERJEE: May I make a further submission in that connection? The seat has been declared vacant under section 93(2) of the Government of India Act?

Mr. PRESIDENT: I think it is His Excellency's prerogative under a definite section of the Government of India Act to declare a seat vacant under certain circumstances and I cannot see how that matter could be discussed here.

Babu JITENDRALAL BANNERJEE: It is not a question of discussing the matter here but I simply want information, either from yourself or from any of the members of Government departments concerned.

Mr. PRESIDENT: What information do you want?

Babu JITENDRALAL BANNERJEE: Reading that notification, I find that the seat has been declared vacant under section 93(2) of the Government of India Act, but——

Mr. PRESIDENT: I am afraid you are going to raise a discussion on that. In that case you will probably like me either to interpret

the rule or to say that the rule has not been correctly interpreted in the present case, or something like that. But no such discussion is permissible; if you want information with regard to any matter of fact I think that information could be given.

Babu JITENDRALAL BANNERJEE: Then I want information, Sir, as regards a matter of fact: What are the duties of a member of this Council and do these duties consist in something more than attending this Council and its Select Committees, if necessary?

Mr. PRESIDENT: Do you want me to tell one who is a member himself as to what the duties of a member of the Council are?

Babu JITENDRALAL BANNERJEE: Yes, Sir. I want either you or any of the Government members to tell me that.

Maulvi ABUL KASEM: The seat has been declared vacant for absence.

Babu JITENDRALAL BANNERJEE: No, the Gazette notification is not on account of absence, but for not attending to his duties.

Maulvi ABUL KASEM: Then, Sir, I want to know why Maulvi Abdul Karim's seat has not been declared vacant?

Mr. PRESIDENT: I am not willing to answer that question off-hand, but I will try to deal with the point which Mr. Bannerjee has raised. I might tell Mr. Bannerjee that, in my opinion, a member of a Legislative Council cannot be taken to have done all his duties if he had merely sent in some questions and motions. He is not only to attend meetings of the Council but must also be prepared to attend such meetings whenever summoned to do so and must be free to serve his constituency whenever required, so long as he is a member. He must be taken to have failed to do his duties if he ceases to be a free man and if his confinement exceeds a period of two months, he must be taken to have failed to perform his duties during that time. How can he serve his constituency or the Council if he is not enjoying the full liberty of a citizen?

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir. May I enquire whether we are not entitled to discuss any public action of His Excellency the Governor?

*Mr. PRESIDENT: No: we cannot do that.

Babu JITENDRALAL BANNERJEE: May I ask, on a point of further information, whether Maulvi Jalaluddin Hashemy has been unable actually to attend to his duties for more than two consecutive months?

Mr. PRESIDENT: My point was this: When a man is imprisoned it may be taken for granted that he cannot do his duties as a member of this House during the period of his confinement. In my opinion, an individual who happens to be a member of a Legislative Council must always be free and within such distance of the Council Chamber as may not make it impossible for him to do his duties by the Council or his own constituency. In the present case, Maulvi Jalaluddin Hashemy having been in jail for more than two months, it must be assumed that during this period he was not in a position to attend to his duties and has, therefore, failed to do his duties, as a member of this Council.

Babu JITENDRALAL BANNERJEE: The time limit has been mentioned as 2 months.

Mr. PRESIDENT: Has not his period of imprisonment exceeded 2 months?

Babu JITENDRALAL BANNERJEE: I do not know. Perhaps he has been imprisoned since the opening of this session.

Mr. PRESIDENT: When a man loses his freedom—freedom which was his as a citizen—for a period exceeding two months he, perhaps, rightly comes under the operation of section 93(2) of the Government of India Act to which Mr. Bannerjee has already referred. It was only out of courtesy to Mr. J. L. Bannerjee, who happens to be a leading member of this House, and who always raises points of interest and importance, it was only out of courtesy to him, that I took upon myself to meet his point according to the light in me, but you must not presume that His Excellency's orders are based on these grounds.

(Many members rose to put further points of order.)

Mr. PRESIDENT: I must not allow any further questions on this point. You must not forget that ordinarily you cannot expect to answer questions. Please let me now go on with the regular business of the house.

GOVERNMENT BILL.

The Bengal Suppression of Terrorist Outrages Bill, 1932.

The Hon'ble Mr. R. N. REID: I beg to move that the Bengal Suppression of Terrorist Outrages Bill, 1932, as reported by the Select Committee, be taken into consideration.

Mr. PRESIDENT: The question is that the said Bill be taken into consideration, but——

Mr. NARENDRA KUMAR BASU: I have an amendment against this motion, Sir.

Mr. PRESIDENT: I will come to that presently. I was just going to deal with your amendment, Mr. Basu. You need not have been in a hurry. It is always desirable that the Chair should let the House know what it is asked to consider. The question really before the House is that the Bill be taken into consideration. The counter-question which your amendment raises shall have to be taken up now.

Mr. NARENDRA KUMAR BASU: I beg to move that the Bill be recommitted When this Bill was introduced and was referred to a Select Committee, I placed before the House certain considerations regarding it, and my submission then was that it was incumbent on this House to postpone further consideration of the Bill, for the present, either by circulation or by any other means, or to reject it altogether.

Among the clauses to which I would like to draw the attention of the House are certain clauses which I find have been touched by the Select Committee but very little. Sir, a bill of this importance was sent to a Select Committee and they were asked to report within a week. They sat on three days, on the 10th, 11th and 12th August, I do not know for how long each day, and they have produced this report. That this Bill has not been properly considered will be quite evident from the fact that so far as several sections of the Bill are concerned, they have received but very little attention at the hands of the Select Committee, and I submit those clauses are very important. Taking the clauses of the Bill, the House will find that very important clauses, viz., 9, 10, 13, 14, 15, 17, 18, and almost all the clauses of the 2nd Chapter, have received, if I may say so, but scant attention from the members of the Select Committee. There are very important matters dealt with in these clauses but they do not seem to have

bestowed that attenion to it which a measure of this importance justifies. In opposing the introduction of this Bill, I said that it was more like asking us, the Legislature, to give a blank cheque to the Executive when this Bill was asked to be passed into law. And I submit, Sir, that most of the clauses have not been touched upon by the Select Committee at all.

8-30 p.m.

I submit, Sir, that most of the clauses have not been touched upon by the Select Committee, and there is one curious fact that so far as the Explanation to clause 14 is concerned, I find that out of the 11 members of the Select Committee 6 have sent in minutes of dissent asking for the deletion of a portion of that clause. The Bill as presented with the report is the recommendation of the minority which proposed that the clause be retained in that particular form. That, Sir, I submit, is a curious piece—shall I say—of legislation as a result of the Select Committee's work that out of 11 members six say that this clause ought to be deleted.

The Hon'ble Mr. R. N. REID: They do not say so.

Mr. NARENDRA KUMAR BASU: Mr. Reid says that they do not say so, but I may point out that both Khan Bahadur Maulvi Azizul Haque and Khan Bahadur Maulvi Abdul Momen say in their minutes of dissent that in the Explanation of clause 14, the portion beginning with the words "and landlords" and ending with "actually reside therein" be deleted.

Babu Jitendralal Bannerjee (No. 3) says: "Again, in the Explanation to clause 14, it ought to be made clear that it is only persons having some sort of residential connection with a local area—or who occupy house-property there by agents or servants—who ought to be made liable for the imposition of collective fines. Landlords whose only connection with an area is rent-collection by means of non-resident agents, are not to be regarded as 'inhabitants' within the meaning of the section."

The Raja Bahadur of Nashipur (No. 4) says: "In Explanation of clause 14, for the words 'or hold land or other immovable property' the words 'any house' be substituted and the portion beginning with the words 'and landlords' and ending with 'actually reside therein' be deleted."

Rai Bahadur Kamini Kumar Das (No. 5) says: "In the Explanation of clause 14, for the words 'or hold land or other immovable property' the words 'any house' be substituted and the portion beginning with the words 'and landlords' and ending with 'actually reside therein' be deleted."

Again, Maulvi Abul Kasem says: "In the Explanation of clause 14, for the words 'or hold land or other immovable property' substitute the words 'any house' and delete the portion beginning with the words 'and landlords' and ending with 'actually reside therein.'"

Sir, including Mr. Jitendralal Bannerjee who did not use the word "deletion," all of them want the portion I have mentioned to be omitted. Still in the report of the Select Committee these words find a place. This shows how the report has been drawn up. I submit, therefore, that the Bill ought to be recommitted.

Mr. ANANDA MOHAN PODDAR: Mr. President, Sir, as a representative of the great community of merchants to which I have the honour to belong, I feel it my bounden duty to place before the House the views of my community on the proposed legislature to suppress the terrorist outrages in Bengal.

Sir, in rising to support the motion, I must submit at the very outset that we, the Indian merchants, are as much zealous as the Governmnt in stamping out the scourge of revolutionary crime from the country which is dislocating our business, disturbing the peace and harmony of the society and tarnishing the fair name of our motherland. We are always prepared to co-operate with the Government and help in every way to free the body politic from the canker of anarchism.

Sir, we, the merchants, are in one sense, the worst sufferers as a result of the terrorist activities. During the last few years, the terrorists have directed their nefarious activities towards the purse of merchants and have succeeded in robbing them of a very large portion of their hard earned savings. My own firm has been the unfortunate victim to a terrorist assault in the recent outrage known as the Dacca Train Dacoity case.

So, Sir, there cannot be the slightest doubt that we, the merchants, are wholly at one with the authorities in their attempts to bring about a normal condition in the country. But, Sir, there is a vital point where we differ from the Government in taking recourse to a policy like this. The difference lies not in the object of the Bill but it lies only in the method and manner to be adopted to attain the end.

Sir, after careful consideration and from our past experience, we are of opinion that the best method to eradicate the evil is to put more trust in the public and take up a more conciliatory outlook. Sir, this Bill has been brought forward in a great hurry and in spite of very earnest appeals and endeavours from this side of the House, the other day, the Bill was referred to the Select Committee without eliciting public opinion thereon. Then, Sir, the Select Committee also in its

turn had to finish its work in hot haste. The Bill, as it has emerged from the Select Committee, is quite unsatisfactory and we do not find any material improvement in it. Perhaps the time at the disposal of the Committee is responsible for this. The members got no opportunity of weighing the clauses in the light of public opinion and independent criticism. Practically all the original clauses have been left in tact. Though we are against the introduction of such a Bill on principle, if we cannot prevent it from being passed, we should try to improve it as best as possible. For this reason, we think that the Bill be recommitted to the Select Committee for their further consideration and improvement on the lines suggested in the notice of amendments sent by the different members.

Dr. NARESH CHANDRA SEN GUPTA: Sir, if the Government is really open to conviction in this matter, I would like to point out one little circumstance of which they may not be aware as yet and which would form a very good reason for reconsidering at least one of the clauses, that is the judgment which was delivered yesterday by Mr. Justice Patterson which interpreted one of the sections of the Ordinance on which this Bill is based. In that case a person had been tried by a Special Magistrate for being in illegal possession of arms under sections 19 (*f*) and 20 of the Arms Act. There was no evidence of his being associated with any terrorist activity and an argument was made on his behalf that it was not an offence for which he could be tried under the Ordinance. That argument was not upheld by their Lordships. If, as a matter of fact, the idea is that this Bill and the special procedure provided therein should under no circumstances apply to any offences other than those connected with terrorist outrages, then that section requires reconsideration; because if that is the object of the Government then that section of the Ordinance does not make it perfectly clear that a man should not be tried and punished by a Special Magistrate for an offence which had nothing whatsoever to do with terrorist outrages. Therefore the meaning ought to be made clear by stating that it should be applied only in the case of offences connected with terrorist outrages. Sir, that is only one circumstance which I would add to those mentioned by my friend Mr. N. K. Basu.

Then, Sir, there is another thing which arises out of the fact mentioned by Mr. N. K. Basu. Have we got a report of the Select Committee to go upon? I submit, Sir, that the report of the Select Committee which has been presented before us is no report of the Select Committee because the report of the Select Committee must be the report of a majority of the committee and the report which purports to be the report of the Select Committee is not the report of the majority. Under these circumstances it cannot be considered.

Certainly if the Government really want the matter to be done in the regular way the least they can do is to recommit the Bill. Sir, I support this amendment, but without conviction, not only because I know that all these recommendations on our part are bound to be futile but also because I do not think that the present Bill will be improved by being referred back to the Select Committee. We have seen the result of the labours of the Select Committee. The improvements which have been effected by the Select Committee are, to say the least of them, not such as to encourage us to hope that the Select Committee will do any better. The addition of one word here and the omission of another word there which in most cases are absolutely meaningless and have no significance whatsoever is simply playing with the idea of a Select Committee. Well, the Select Committee might very well say: "This is a piece of highly artistic work and trying to improve it would be like gilding gold; therefore return the Bill to the Council." They would not have been doing anything more or any thing less than what they have done. Under these circumstances I do not feel much encouraged and, as I said, I am supporting this motion without much conviction. Sir, we on this side of the House do not think that we can help very much in improving the Bill even by moving amendments, because this is not a piece of legislation which stands by itself; it is a part of the great policy of the Government and that policy the Government has deliberately adopted and wants to carry through. Trivial amendments here and there would not really make any substantial change in the policy. If we are successful to carry them, then you only pass a bit of the responsibility of that policy upon us. For if we succeed in making it less drastic and it is not successful, then the Government will say that the result achieved is due only to our making it less drastic and therefore it has not been successful. That being so, I do not see that we are really called upon to help in this matter whatsoever so long as the policy is there and the Government is determined to put that policy into force. Our own attitude should be to let them do it on their own. If it means disaster, let the Government have the responsibility for that; if it turns to be good, I would let Government have the full credit for it. I for myself would like to wash my hands off absolutely of any participation in any of the amendments.

Mr. H. BIRKMYRE: Mr. President, Sir, once, within the last few weeks and several times in the last year we have heard speeches in this House on the subject of terrorist outrages. My friends opposite joined us in tribute to murdered officers, concurred in messages of sympathy to their widows and families and united with us in condemning terrorism.

This was good in as far as it went, but words won't restore to life an officer shot in the back by a coward. Deeds are wanted to prove one's sincerity, and when an opportunity is provided for translating the condemnation into deeds, what do we find?

Do our friends come forward with that same unanimity to help us pass a Bill to assist in fighting this menace? No, to their shame they do not. They fight not only without a single reasonable argument but with a vehemence that goes far to prove where their real sympathies lie.

Dr. NARESH CHANDRA SEN GUPTA: On a point of order, Sir. Is the hon'ble member entitled to make this insinuation against the members of this House as to where the sympathies of the opponents of this measure lie?

Mr. H. BIRKMYRE: We have heard from Mr. J. L. Bannerjee two fine speeches in which he spoke in no uncertain terms on terrorism and the need for mobilising public opinion as a most potent weapon with which to attack it. Why not follow his lead? Their presence here proclaims them the leaders of public opinion. Very well then be leaders. Join with us in passing this Bill without a dissentient vote and that will deal a real blow to terrorism. It will also hearten those of their countrymen who are facing the menace of terrorism with a courage which is beyond all praise. It will also be a good augury for the future statesmanship of autonomous Bengal.

3-45 p.m.

Mr. SYAMAPROSAD MOOKERJEE: At the outset I must express my surprise at the speech delivered by the previous speaker. He was perfectly entitled to oppose the amendment on its merits; he was perfectly entitled to say that the Bill which has been introduced by the Hon'ble Member as amended by the Select Committee is the proper remedy for the great evil which now confronts the province. But I do not think he has any right whatsoever to say that those members of this House who do not see eye to eye with members on the other side must necessarily have their sympathy elsewhere. That displays a mentality which deserves to be seriously condemned by every right-thinking man. Sir, whose interests are at stake, may I ask? The interests of the foreigners, the adventurers and exploiters who come to this country to make their gold, or the interests of those, who are the children of the soil, who have to reside in this country from generation to generation? Who suffer most by the existence of the present menace? Certainly the Indians. If in spite of the fact that we do suffer, and we do feel the existence of this terrible menace, we are unable to lend our support to a Bill of this description, the reason must indeed

be very serious. The reason is that we honestly feel—and this is not confined only to some Indian members of this House but also to a large section of the public outside,—we honestly feel that the measures which are being put on the statute book one after another, are not the proper remedy for the disease with which we are supposed to be grappling. Sir, these repressive measures have been in force in other countries where Governments have been faced with similar situations, and what has been the result there? Have repressive measures succeeded in any country? We need not travel to any other country, but let us look to what has happened in our own country; what has happened in Bengal? What has been our experience during the last few years? One measure after another has been placed on the statute book but has that solved the problem in any satisfactory manner? Only last night, Sir, we passed a Bill providing that an attempt to commit murder, although it might be unaccompanied by any hurt, would be liable to be punished with death and to-day, Sir, it is proposed to deal with the problem in another way. We do not propose to deal with terrorists in the first chapter; we are there concerned with the members of the general public. There are those very drastic provisions of indiscriminate search, provisions for the possession of immovable properties and movable properties, collective penalties and fines for landlords and other individuals, whether they were actually present on the spot or not. In fact, Sir, these are provisions of a sweeping character which are not concerned with the terrorists themselves, but which may well interfere with the peaceful avocations of ordinary citizens. Now Sir, we are perfectly entitled to ask where are we going to stop? It may even be that this measure will fail to satisfy the Hon'ble Member and after a few months, we shall be asked to put on the statute book other measures still more drastic than the present one. Sir, the present Bill is only in name an amendment of the provisions for the administration of justice; it is really a provision for martial law in the province. There is no use disguising the fact. The provisions are of that character. Sir, if we could realise that a measure of this description would in any way effectually deal with the present problem, we would have been the first to give our support to Government for the purpose of putting such a measure on the statute book. In spite of our opposition such measures have been passed into law, and we who have so long disagreed with Government, are entitled to ask, have your measures met with the results that you had anticipated?

I hope the Hon'ble Member in charge will not misunderstand me; it is very necessary that he should realise the feeling in the country about bills of this description. There is a feeling that Government is partly responsible for the growing movement of terrorism in the province. I shall explain, Sir, why I say so. Sir, there is a great apprehension in the mind of the public that Government does not always do justice

in cases where justice is called for. I shall refer, Sir, by way of illustration, to the death of that unfortunate young man at Dacca, Anil Kumar Das, a few months ago. The reason, Sir, why I am referring to this illustration is this. Now, if the public mind is not satisfied that justice has been done with regard to the facts of such cases, it does result in serious reaction. It does even result in an indirect way in giving strength to the movement of terrorism, to which youngmen are driven out of a sense of sheer helplessness. Now, Sir, what happened in that case? This young man was arrested on suspicion that he was implicated in connection with some political dacoity case in Dacca. He was a perfectly hale and hearty young man of 25 or 26, a vigorous youth not suffering from any disease. Then suddenly he was removed to an interior police-station at Lalbagh, and the statement issued by Government said that he was removed because the lock-up in Dacca proved to be too hot and sultry. What a reason, Sir! Were all the prisoners who were detained in the Dacca lock-up removed to the Lalbagh thana? I am sure not. Then why all this solicitude for this one unfortunate prisoner who was removed to this neighbouring mufussil thana? Was it really the weather or something else? Then, Sir, no information was sent to his people at home; they approached the officers concerned for permission to interview the prisoner at Lalbagh. Such permission was resolutely refused. When the prisoner was presented before the Magistrate, well, Sir, all that we have on record is that he looked haggard, pale and queer. He was again sent back; again there were frantic efforts on the part of his people to secure permission to have an interview with this unfortunate lad. But no such permission was given. The Magistrate was approached by one person after another with equal success. Then comes the climax. The Magistrate one day informed the representatives of the prisoner that the prisoner had died of insanity. Sir, I am not asserting,—because I cannot possibly assert in the absence of materials—that the death of this young man was positively due to the ill-treatment he received at the hands of the police during these few days. But I do say, Sir, it is no use hiding these facts from the Hon'ble Member, I do say that there is a deep-rooted apprehension in the public mind that something must have happened during this period which caused the death of this young man. Why I am referring to this illustration is to show that a failure to remedy these grievances has very serious consequences on the public mind. Naturally young men who are residing in or nearabout this place find that they are helpless; they find it is impossible to obtain any redress from Government and they are prompted to take the law into their own hands. I do not suggest, Sir, that in these cases the Hon'ble Member issues any instructions from Calcutta that a prisoner should be dealt with in a particular way which may end in his speedy death. I am not suggesting that for a moment. I hear the Hon'ble Member saying, "Thanks." I shall thank him a little more if he gives us

this assurance that he is prepared to institute an independent non-official enquiry into the allegations of this affair. He will not deserve our thanks by qualifying himself for a negative virtue and merely not issuing these instructions. When such an incident happens we expect Government to institute an impartial enquiry so that public apprehensions may be satisfactorily removed. I believe what stands in the way of Government is prestige. That is a very convenient expression which is used by Government at all times. But I do ask Government to consider seriously whether prestige will not be enhanced by boldly facing the situation. If the Hon'ble Member is sure that there is nothing of which he is afraid, why is it that he is reluctant to face an enquiry? Will not this prestige be firmly established in the long run if the result of this enquiry proves that there was no ground for apprehension in the public mind at all. The same argument applies with regard to the other unfortunate young man, Phanindra Das of Midnapur, the same observations apply with regard to the incidents at Chittagong, in spite of the statement read out the other day to the House by the Hon'ble Member which has not satisfied anyone. All that I say is this: that these are the opportunities which Government loses. If these opportunities are taken advantage of, Government can certainly restore the lost faith of the public. It is no use ignoring the fact that whatever the reason may be, the public has lost its confidence in British justice. That is a fact which has to be faced for it is at the root of all trouble. If you are prepared to accept the challenge, why not do so and institute an enquiry in such cases and allay public suspicion.

The next point I would emphasise is, that I entirely agree with my Hon'ble friend that it is impossible for Government to fight this menace single-handed. It must have public confidence and support. I would ask the Hon'ble Member to bear in mind the words of wisdom uttered by my esteemed friend Mr. J. N. Gupta when we were considering the introduction of this Bill a few weeks ago. The great blunder which Government makes is to identify the civil disobedience movement with terrorism. The leaders of public opinion, belonging to one very important section of the community, have been secluded behind prison bars; how can you expect that public opinion will express itself in the absence of a better atmosphere? It is for you to create that atmosphere. Government says that the present is a most difficult situation; if that is so, be bold and courageous enough to face the issue and approach the Government of India for permission to utilise the services of the members belonging to the Congress whom you are prepared to depend upon and ask for their active support to fight terrorism. That is an aspect of the matter which you must face, because you cannot fight this movement single-handed. Unless you are prepared to change your present mentality, you cannot expect a better situation; you have

gagged the press and the platform; you are sowing the seeds of discontent and disaffection more than any body else. If you persist in your present policy, your own future is doomed. These are my views which I would ask the Hon'ble Member to seriously consider. I would also once again ask my European friends to remember that if it is not possible for us to agree with them with regard to any particular point, it does not become them to immediately get up and say that the reason must be that our sympathies lie elsewhere and we are unwilling to give our support to the present measure although it is for the country's good.

4 p.m.

The Hon'ble Mr. R. N. REID: The mover of this motion in moving that the Bill should be recommitted took his stand chiefly on his supposition that the Select Committee did not carry out their duties properly. From his speech he appeared to imply that very little care and attention must have been given by the Select Committee in considering the Bill because their report does not contain numerous alterations and criticisms. I deny that the Select Committee had not considered every clause of the Bill very carefully. He said that we spent only three days on the work and implied that the period of actual sitting during those three days was very short. My recollection is the contrary. The Select Committee contained representatives of all parties in this House and they gave the fullest consideration to it and the fact that they did not make numerous alterations cannot be taken as proof that they did not consider every clause of the Bill carefully.

The second speaker seemed to be anxious to postpone the consideration of this Bill on account of a defect which actually appeared in an Ordinance but which does not appear in the Bill and which is the subject of a recent ruling of the High Court. If he looks at section (whatever it is) under which that particular charge was pressed, he will find that clause 24 of the Bill retains a phrase "in connection with the terrorist movement," which I think will remove the defect that he felt.

Dr. NARESH CHANDRA SEN GUPTA: That was not the defect.

The Hon'ble Mr. R. N. REID: I am afraid I misunderstood him.

Mr. Mookerjee has said what he has often said before that this Bill is no remedy but, as before, he has not suggested what the real remedy is. I wish he would, because I quite realise that these provisions are not likely to be a panacea for all our troubles in Bengal. As it is, we try our best to do as much as we can. He referred to other countries and said that this sort of repressive measures had failed in

other countries but the only specific instance he gave was India. I should like very much to know what countries have tried these remedies and where they failed. Then he went on to make out a great deal of the case of Anil Kumar Das, who died at Dacca. He admitted that he had no proof, no ground, on which to base his remarks. Why then did he make them? Only to create an atmosphere, to create prejudice against Government? He simply said that there was a feeling of distrust which was being caused by this sort of incidents.

Mr. NARENDRA KUMAR BASU: What about the *post mortem* report?

The Hon'ble Mr. R. N. REID: I deny that there is any ground whatsoever for the insinuation or inuendo, and because no such ground existed, Government decided that there was no necessity for any further enquiry. I deny also that Government are reluctant to face any enquiry. What is the good of any enquiry when there is no necessity for it? Supposing that where there is an enquiry the result of that enquiry is not exactly what the critics of Government would like to have, what would be the gain?

Mr. NARENDRA KUMAR BASU: Mere denials will not carry things further; it will do good if you publish the report. If you dare, publish the Chittagong report.

The Hon'ble Mr. R. N. REID: I do not think I need labour that point any further. I repeat that I can see not the slightest reason, and I do not see any real reason has been advanced to-day, why this Bill should not be taken into consideration and what would be gained by referring it for further consideration or by re-committing it to a further committee.

With these words I oppose the amendment.

The motion of Mr. Narendra Kumar Basu was then put and lost.

The motion that the Bengal Suppression of the Terrorist Outrages Bill, 1932, as reported by the Select Committee, be taken into consideration was then put and agreed to.

Clause 1.

Mr. PRESIDENT: The question is that clause 1 stand part of the Bill.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that after clause 1(2) the following be added, namely—

"Provided that such notification shall not continue in force for over six months."

As a Hindu I am afraid of taking any part in a debate on this measure. What do we see all around us? It appears that every Hindu in this land of Bengal is a suspect. It is a discredit to the Hindu community if any member dares to press the views of his constituency; he is accused of being in sympathy with the terrorists.

Mr. PRESIDENT: You are supposed to justify your amendment and confine your remarks to the particular clause you are attacking.

Mr. SHANTI SHEKHARESWAR RAY: But in spite of vile insinuations we should be failing in our duty if we do not express boldly the views of our constituency and make suggestions which we consider should be followed in connection with this measure. I hope members of other parts of the house would have some consideration for their colleagues in this Council when they make this insinuation because if they hurl insinuations at us we can also hurl insinuations at them;

Mr. PRESIDENT: I hope the member will not take it amiss if I tell him that the motion that the Bill be taken into consideration has already been accepted by the house and now we are dealing with amendments and those who are moving those amendments should bear in mind that their remarks should be confined to their amendments and that a general discussion is no longer permitted.

Mr. SHANTI SHEKHARESWAR RAY: Lest my intention is misunderstood and I am thought to have any sympathy with the terrorists I wanted to make those preliminary remarks.

Sir, I do not think that any Legislative Council in India has been asked before this to entrust such wide and sweeping powers in the hands of the executive authorities. The wide powers which government want to take under Chapter I of this Bill can be justified only on the ground of an emergency. I hope the Government of Bengal will concede that a state of emergency cannot last for ever or for the matter of that for even a period of three or four years at a stretch. There is no provision in the Bill by which the Government can withdraw the provisions of Chapter I once these are enforced in a particular area.

Mr. PRESIDENT: I am afraid you are not following my advice.

Mr. SHANTI SHEKHARESWAR RAY: There may be an improvement in the situation, the emergency may have passed but the people of the particular area must continue to suffer under these disabilities. We are asked to place the provisions contained in an Ordinance on the statute book. The powers vested under an

Ordinance lapse after a period of six months. Apparently the underlying idea is not to perpetuate an abnormal condition of things. It is neither good for the people nor for the Government. There is bound to be an atmosphere of suspicion and uneasiness in an area where these provisions are enforced. The Government ought to take into consideration the position of the ordinary citizen. All these provisions contained in Chapter I of the Bill are likely to have a very unsettling effect on the mind of the people. On mere suspicion officers of the Government can do this or that. Of course under that law of necessities justifications will be forthcoming for many actions otherwise objectionable. But there should be a limit to all things. I think a provision to limit the permit of operation for a period of six months after the notification will have a good effect. In case of a further emergency the powers can be taken under a new notification. As the life of the measure is not proposed to be curtailed I think the Government should not have any hesitation to accept my amendment. They will have the power to take action under this measure at any time during the next few years.

Sir, my amendment suggests that notification in connection with with the Chapter I of the Bill should not continue in force for over six months. In view of your ruling I am doubtful whether I shall be in order in referring to the disabilities that I find in Chapter I.

Mr. PRESIDENT: If you are doubtful, better leave it.

Mr. SHANTI SHEKHARESWAR RAY: But I shall take my chance till I am asked to take my seat on the ground that I bordering on irrelevancy.

4-15 p.m.

Let us take clause 3. Here Government propose that an officer of Government——

Mr. PRESIDENT: I would remind you once again and for the last time, that two points are under discussion—one is your own amendment and the other is the clause you have attacked. So if you really want to go beyond your amendment, you should bear in mind that you do not cross the limit of the clause itself.

Mr. SHANTI SHEKHARESWAR RAY: I was only pointing out the great disabilities under which the people will labour under this clause. If this clause is passed, people——

Mr. PRESIDENT: You know my ruling and you should not go beyond that.

Mr. SHANTI SHEKHARESWAR RAY: Sir, the disabilities that are intended to be perpetuated during the next few years, unless this clause is modified according to our suggestions, are of a very serious nature. Well, power is given to an officer of Government to arrest anybody on mere suspicion and detain him for 24 hours in his own custody. This officer may be a mere constable without proper training. Then there is the power of taking possession of movable and immovable properties. Then again there is the power as regards regulations of traffic—as regards means of transport. Then there are extensive and more wide powers to issue search warrants. There are so many objectionable features that it is unnecessary to recapitulate them at this stage, because they will be coming up for discussion later on. But what I want to emphasise is this that this emergency measure should not go beyond what is possible for the people to tolerate and what is unavoidable, and with the return of normal conditions it should be removed and should not be perpetuated a day longer than is necessary, and my amendment gives the Government an opportunity to reconsider the situation in a particular area after six months. For instance, the situation in Chittagong may be very bad to-day but it may not be so six months hence when Government may consider it unnecessary to impose the emergency regulations on the inhabitants there. But on the other hand, if the situation at, say, Malda or the 24-Parganas becomes worse, they can extend the emergency law there for the period during which such conditions prevail there. But it will be very unfair to penalise a particular area for all the time, although an emergency may not exist there.

Mr. J. CAMPBELL FORRESTER: Sir, I do not think I have listened to anything in connection with this Bill which has got to the bed-rock root of the matter. There has not yet been one argument placed in front of the House by anyone on the point of psychology or metaphysics, as we call it in Scotland. I would classify the terrorists if you, Mr. President, will allow me to continue in my line of argument, I hope I shall be able to show you that it will have a bearing on the amendment before us. If you will permit me, I would classify the terrorists into three headings just as I would classify the ordinary criminals. First, we have the habitual criminal. Whatever punishment you may give him and for howsoever long a time you may send him to prison as soon as he is released from prison, he again commits crimes. You cannot cure him. Unfortunately he has inherited this; he has got the instinct in him of some far off savage forefather. He is an atavist; he has been bred backwards; he is an animal in instinct and temperament. Such individuals must be kept in prison permanently or some other methods must be devised for the protection of society against them. Then there is the other type of criminal who becomes a criminal because of poverty.

Mr. PRESIDENT: What is your point?

Mr. J. CAMPBELL FORRESTER: I am going to try and prove that the terrorist should be placed in the same category and should be divided into different classes.

Mr. PRESIDENT: That is a matter for the police.

Mr. J. CAMPBELL FORRESTER: If you will permit me, Sir, I should like to classify the terrorists just as I would classify ordinary criminals under three heads.

Mr. PRESIDENT: I would advise you to give up that line of argument and to come to the point at issue.

Mr. J. CAMPBELL FORRESTER: I am sorry you will not permit me to continue in this line of argument. Well, Sir, it is almost unbelievable that in this enlightened age there is a certain class of people who subscribe to the principle involved in the most diabolical thought ever conceived in the mind of man—"the spectacle of the torture of the damned adds to the bliss of the blessed"—we of course being the damned.

Mr. PRESIDENT: I am afraid you are straying away from the subject matter of the discussion.

Mr. J. CAMPBELL FORRESTER: Since you will not allow me to elaborate my points to prove that this amendment can be of little avail I must bow to your ruling and resume my seat.

Rai Bahadur KAMINI KUMAR DAS: Sir, I had no mind to take part in the debate, but as Mr. Shanti Shekhareswar Ray began by saying that six months will be sufficient to put down the terrorist movement at Chittagong, I have to oppose it and I submit for the following reasons. I shall narrate what happened in Chittagong three years back. One fine morning in April we awoke to find that a Brahmin boy was shot dead because he did not let the raiders to go to the armoury. That night a military officer was also shot dead in the presence of his wife. Shortly after a Buddhist and a Muhammadan were killed. This was in the middle of April: after that this terrorism continued and we suffered and suffered a great deal. The punitive tax was levied and we had to pay Rs. 75,000 by pledging the ornaments of our wives and children. The big armoury case commenced and fathers and mothers of the accused in the case went from door to door for money for bringing lawyers from Calcutta. This case continued for over a year and then the sentences which were passed

on the accused were very lenient. The poor relations of these accused suffered very much but still this did not bring them to their senses. Though the Tribunal treated these young men very leniently and tempered justice with mercy still the terrorist movement is there. If they had a grain of common-sense they would have surrendered and implored for mercy. Then, Sir, the sufferings of the people of Chittagong were so great——

Mr. PRESIDENT: What has all this got to do with the amendment?

Rai Bahadur KAMINI KUMAR DAS: Sir, for three long years the people of Chittagong suffered and suffered much in spite of the clemency shown by the authorities. If these raiders had any sense of nobility in them, they would have come out of their hiding places and saved the people of Chittagong all these miseries. Now you are going to say that the British Government is responsible for this terrorism. But I submit, Sir, that they have given all sorts of facilities and protection. I do not say that the measures which are going to be enacted will be successful in putting down terrorism; but we know this much that our Chittagong has got pneumonia and her both sides have been affected and we shall have to give her medicines and administer poison at this critical stage. I take this law as administering poison hoping it may have a good effect. For the sake of the people of Chittagong we must have some sort of safeguard against the present troublous situation there. If the Hon'ble the Home Member believes that this law will suppress terrorism let him try and we should not stand in his way.

Babu SATYENDRA NATH ROY: Sir, I had no mind to speak on this particular amendment but the argument of the last speaker to my right convinces me that there is some force in it. The mover of this amendment has rightly said that things in an affected district may settle down in two or three months and there may not be any necessity for keeping the special regulation in force after that period. In this view of the case I think Government should have the power to order that the notification should not remain in force for more than six months. I think, Sir, that a slight alteration to the amendment of my friend to the right is necessary. Suppose the situation in a particular area does not settle down within six months, I think in that case Government should have power to renew the period of the notification and the modification should be that the period of the notification should not be more than six months subject to the condition that Government will reserve to themselves the right to renew the period in special cases.

4-30 p.m.

The Hon'ble Mr. R. N. REID: I beg to oppose this amendment that such notification shall not continue in force for over six months. I cannot see any particular point in this and I can assure the House that the notification extending the provisions of the Bill to any particular portion of the Province will not be applied unless conditions demand it. Now, in the case of the Ordinance of 1931 on which, as the House knows, this Bill is to some extent based, Chapter I of that Ordinance was never extended beyond one particular district and the same principle will be followed by Government in extending or not extending the provisions of this Bill to any particular portion of the Province. If the provisions are extended to any particular district, there is no reason why it should continue to be in force in that area for ever. On the contrary, if Government find that conditions have improved in that area and are convinced that those provisions are unnecessary, they will surely withdraw them. So, I cannot see any reason why this proviso should be added to the Bill. With these words, Sir, I beg to oppose the motion.

Mr. SHANTI SHEKHARESWAR RAY: May I rise on a point of information, Sir? Under the provisions of which Act will such provisions be withdrawn?

The Hon'ble Mr. R. N. REID: They can be withdrawn under the provisions of the Bengal General Clauses Act.

The motion of Mr. Shanti Shekhareswar Ray was then put and lost.

Mr. PRESIDENT: Before I adjourn for prayer I should like to tell the House at this stage that there are four or five other amendments on this question of the clause continuing in force for a certain period, but I picked up this particular motion just to enable the House to make up its mind whether the other motions should be moved or not. I am not going to impose great restrictions on the liberty of the members, so far as the question of moving these amendments is concerned, but I would simply point out that this is the very reason why I selected this particular amendment and have taken it up separately to save the time of the House. After prayer, if the House thinks that the other amendments should be taken up because those amendments do mention different other dates, I will do so.

[At 4-35 p.m. the Council was adjourned for prayer and it reassembled at 4-50 p.m.]

Maulvi TAMIZUDDIN KHAN: I move that for clause 1 (*3*) the following be substituted, namely:—

"(3) This Act shall continue in force till six months after the date of the inauguration of the new constitution in Bengal."

Sir, the question at issue here is whether this piece of legislation which the House is going to enact will have a long lease of life, or whether it should have a shorter lease of life, as proposed in my amendment and certain other amendments. If we are to consider this question we ought to see what is the character of the measure that we are going to pass. Sir, so far as the merits of this measure is concerned, opinion in the House seems to be sharply divided. There is one section which is absolutely against this measure and there is another section which is in favour of it. There is still a third section, if I may say so, which does not agree with all the measures that are going to be enacted in this piece of legislation, but which nevertheless think that, under the present circumstances, in the absence of something better, they are constrained to give their reluctant support to this measure. Now, the question is whether this legislation is going to be such a thing as deserves to have a long lease of life. We have seen that this measure is not a new one. It has already been under operation in the shape of an Ordinance for many months in this Province and the public know what the effect of that measure has been; if we are to assess the value of that measure by its past success or otherwise we find that here also opinion is very sharply divided. There are some people who think that the measure has been altogether unsuccessful, because inspite of its operation for several months the terrorist movement has not only not disappeared from the land but rather seems to be gaining ground every day. Those people think that it is probably this measure which is responsible for the increase of terrorist activities in this Province. But I cannot see that this is a valid argument, because we do not know what would have been the result had there been no such measure before the country. Without the operation of a measure like this the situation might have been still worse. So, we cannot say definitely that it has been altogether unsuccessful. But there is also another side of the shield. We cannot either say that it has become successful, because inspite of its operation for months the movement has not undergone any change. Therefore, nobody can dogmatically assert that the measure has been a success. How can anybody under such circumstances dogmatically assert that this is a measure that deserves to get a long lease of life? Therefore, my proposition is that, instead of giving this Bill which is a measure of doubtful utility, a long lease of life let us give it a shorter period of life, and the period I have suggested is six months after the inauguration of the new reforms. Many of us as I have

already said are giving this measure a very reluctant support in the absence of something better. Therefore, as we are giving, a reluctant support, should we be a party to give it a long lease of life, and should we not rather consider that in the new constitution our resources might be greater than they are now, and that the reformed Legislature might be able to devise a measure more effective, or perhaps the new Government might revise the whole policy, and adopt an altogether different policy which may be more successful in dealing with situations like this and which may perhaps take away the very ground from under the feet of the terrorists so that this dangerous movement may die a natural death.

5 p.m.

Mr. B. C. Chatterjee has more than once said on the floor of this House that if the portfolio of Law and Order is transferred to a responsible Minister then the terrorists will discontinue their activities. Whether they will under the present circumstances or not, I am not certain but there is reason to think that if actual provincial autonomy is given to this Province and real power is actually transferred to the people of this Province the terrorists may think twice before they decide to continue their subversive activities. That is a matter which should receive the serious consideration of this House. There are members of this House who think that it is not their duty to suggest any measure to fight terrorism; there are others who think it their duty to do so and I for myself am in full agreement with the latter view. Whatever may be the duty of individual private members, there is no doubt that as far as the Government is concerned it is their clear duty not only to keep terrorism under check but to eradicate this evil from the Province if possible. As I have said, this measure does not seem to have attained in the past the success that was expected of it. I think therefore that it is only just and reasonable that we should not fetter the hands of our successors, who will be invested with larger powers and as such will have perhaps a greater sense of responsibility. Being imbued with greater sense of responsibility, they may be expected to meet the situation with greater tack and resourcefulness and they therefore may possibly bring forward measures which will be better able to cope with the terrorist movement. I therefore think there is no reason why the Government should ask for the same lease of life for this measure as the Criminal Law Amendment Act has. I think, Sir, it will be impolitic on the part of the present Government to give this measure the same period of life. There was considerable opposition in the house when that Act (the Criminal Law Amendment Act) was passed and there was also influential opinion that the measure should have a shorter period of life. I think there is no reason to repeat a mistake by giving this measure the same period of life as that Act.

Mr. ANANDA MOHAN PODDAR: Sir, I beg to move that in clause 1 (*3*), lines 1 to 3, for the words "as long as the Bengal Criminal Law Amendment Act, 1930, remains in force," the words "until the date of the introduction of the new Reforms" be substituted.

Sir, in rising to move this amendment, I would, at the very outset, assure the Hon'ble Member that we the members on this side of the House fully realise the gravity of the situation. We realise and admit that there is in existence terrorist organisation of very dangerous nature in Bengal and that their activities are injurious to the best interests of the Province. We are at one with the Government that the terrorist activities must be suppressed at the earliest possible time. Its continuance has resulted in the loss of some very valuable lives and of some very efficient officers of the Government. And it has also undermined the very structure of our society—it has dislocated trade and commerce—it has brought about intolerable suffering to a large number of innocent persons—it has sent a thrill of horror and panic in the minds of all peace-loving people of Bengal. The Government cannot allow its faithful officers to be shot down nor can we allow the blackest chapter of the history of our beloved Province to be continued any more.

But, Sir, the point on which we disagree is, that the method adopted by the Government will result in coping with the ugly situation. We had enough of these repressive measures during these last few years and the history of repressive legislation will give the lie direct to the proposition, that repressive measures can do away with terrorist organisations. It is our sorrowful experience that these repressive measures have failed and failed very ignonimously. For do we not find that in spite of all these Ordinances and Criminal Law Amendment Acts, the situation is growing worse day by day? Sir, the Government has found out only one weapon to cope with the situation; it is repression and more repression. Whenever we meet in this House we are asked to give our support to some of the repressive legislation. Only in the last session the Bengal Criminal Law Amendment Act, 1932, was passed. But has the situation improved thereby to any extent? Not at all.

So, Sir, instead of this, would it not be much better to go into the root of the terrorist organisation and invite public co-operation? Sir, we are on the eve of great constitutional changes. We want that the reforms should become successful and the people should co-operate with the Government to bring about the normal condition in the country. We expect that a popular system of Government will be introduced in this Province and it is necessary that the present Government should have the way smooth for the working of the coming reforms. If these repressive laws remain in the Statute Book of the

country, it will not be consistent with the spirit of the coming reforms—if they are really meant for the peace and prosperity of the nation. As I have said before, we have no faith in the repressive measures as the only weapon to cope with the terrorist organisations. They only give greater provocation to the perpetrators of these crimes. As they have been given a fair trial and proved unsuccessful, it is our earnest request that a policy of reconciliation should be adopted.

So, Sir, by accepting this amendment, I hope the Government would make this gesture that they are anxious to conciliate public opinion. Moreover the hands of the future Government should not be tied up beforehand. If after the introduction of the reforms, the Government find no necessity of continuing these repressive measures, why should we allow them to remain in force for a longer period? On the other hand, if the policy of the future Government be not changed and if they are really in need of such laws, they can easily re-enact them.

So, under no circumstances, should this particular piece of legislation be allowed to remain in force after the introduction of the reforms. With these words, I commend my amendment for the acceptance of this House.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to support the motion moved by my friend, Mr. Tamizuddin Khan, not on the arguments advanced by him but in expectation of a better atmosphere after the inauguration of the reforms. Sir, the Bill under discussion is a sort of martial law. It should have been better named the Oppression of the Civil Population Bill. The Bill has got many drastic provisions which ought not to remain in the Statute Book for any length of time. Its longevity must be curtailed or the life of the people of Bengal would be unbearable. If it be allowed to remain in the Statute Book for a longer period than it is proposed, it will have a disastrous effect on the civil population of Bengal. For your inability to trace the culprits you want to penalise the whole population. I really wonder how our rulers can conceive of such a queer sort of Bill.

Every right-thinking man hates terrorism from the very bottom of his heart. Suppress the terrorists by all means in your power but for God's sake do not terrorise innocent people for the heinous crimes of a set of misguided youths for a longer time than you think it to be in your superior wisdom to be absolutely necessary. I am sorry my friend, Mr. Birkmyre, has misunderstood us. We condemn the outrages as sincerely as he does. The difference between us and the Government lie not in the suppression of terrorism but in the methods which they have adopted and are going to adopt in combating with the evil.

Sir, had we not been convinced that the blunders which are being committed by Government are helping to swell the ranks of the terrorists, we would have certainly supported every action that Government might take to sweep out the evil. Sir, since the ill-fated Partition, Bengal has known no peace. Secret societies for committing diabolical murders of officials to serve political ends came into existence since then. The cult of violence was foreign to Bengal—it was of exotic growth. Our highest conception of religion is *Ahimsa*—not to hurt even a fly if it can be helped. It was against our religious susceptibility to tolerate violence in any form whatsoever—far from sympathising with the murderers who are the pests of society. It was unfortunate that the cult of violence imported from West has come to stay.

Mr. PRESIDENT: You need not go into these details.

MUNINDRA DEB RAI MAHASAI: Very well, Sir, Government has not been slow in their attempts to extirpate it, and they have been armed with more and more powers by the legislatures to cope with it. But, Sir, may I ask have they succeeded in even scotching the terrorists? They have not been able to solve even the fringe of the problem. The first legislation of its kind after the partition of Bengal was Act No. V of 1908—an Act for the prevention of incitements to murder and to other offences in newspapers. The second was Act No. XIV of 1908.

Mr. PRESIDENT: Order, order, it has nothing to do with the motion before us.

Dr. NARESN CHANDRA SEN GUPTA: Sir, I have already dissociated myself with any amendments to the Bill but as a special case I wish to dissociate myself with the amendment proposed by Maulvi Tamizuddin Khan. Modern psychology tells us that when a person's actions are unaccountable or are contradictory to each other the act must be due to an impulse coming from his unconscious mind. I do not know whether Maulvi Tamizuddin Khan's unconscious mind was responsible for this particular amendment. I do not also know whether he realises that by this amendment he may be possibly extending the life of the Act beyond the period which the Government contemplates. Firstly, there is the formal difficulty that no legislation can take into account when the reforms would come into force and embody a provision in the law to that effect. There may be many a slip between the cup and the lip and you cannot possibly embody in an Act a provision that it will be in force for six months after the reforms are inaugurated. The law takes no notice of such a provision and no

court of law can take any judicial notice of it. Under these circumstances this clause would be meaningless. The coming reforms are entirely problematical. Maulvi Tamizuddin Khan perhaps hopes and many of us, perhaps, hope that the reforms may come very soon: but they may not; who knows when they will come into force. Then again, why do you tie down the Government even for a day by this piece of legislation? If Maulvi Tamizuddin Khan's amendment is accepted it means that after the reforms are inaugurated the new Legislative Council will have to amend the Act, which will be still in force, of its own motion.

5-15 p.m.

But of course the legislators of the future may not keep it alive for a single day, and in that case this will go. But what I feel is this that Mr. Tamizuddin Khan's amendment does not say what it means. He is not really cutting down the life of the Bill to a definite period, which is shorter than the period which the Government intends to have. In the second place, what is the idea behind these amendments to shorten the period of the Bill! Well, the idea is, I take it, that in six months terrorism will be buried by this counter-terrorism. I can assure the house that there is not the silghtest chance of that happening. It would have been quite possible, and you might have made such suggestions if the Government position was this, that the Government was going to make a great drive towards winning the people to their side by a great generous gesture, which will satisfy the people, that the Government exists for and wants to rule for the good of the country as a whole. If you have a programme of that character in your mind, and if you know definitely that there is a definite time by which you want to carry that into effect, I can quite understand the limiting of the time. Suppose the Government feels that it will have a great programme which will improve the condition of the people economically, socially, educationally and otherwise in such a manifest manner that no man will have any excuse for feeling that the Government is against the people. If you have such a programme, just to give you time for putting that programme into operation, you may have a short repressive measure of this sort, just for the period of working out this programme in the meantime. That is what was done in Russia under Lenin. That is what was done by Mussolini in Italy; but we do not know whether the Government of Bengal has any such great imaginative programme before them, and, therefore, they do not want to limit this Bill, or they want to limit it to a period which, they think, will enable them to extirpate the evil by sheer force. Well, if that is the idea, and if from this side of the House all the movers of the amendments cannot also give anything else, I do not understand the idea of moving these amendments. I will not take the time of the

Council much longer, but I take this opportunity to say one word with regard to the challenge thrown out by the Hon'ble Mr. Reid that we, on this side of the House, have no idea of what is to be done. No one can expect us to have any idea or any information as wise, or as practicable or as workable as that fountain of wisdom, the Government: But we know this and we have suggested this, as a general principle, that the only way of dealing with the evil of terrorism is to win over the great majority of the people to your side. Some action, some gesture will do it. You must do something. You must start a centripetal force, but this legislation is just the reverse of it. It sets up a centrifugal force driving the people away from the Government. There is no other way to help the Government, and that is the great thing which we want to drive home to the Hon'ble the Home Member. It may be that we have not been able to give any ideas worth consideration; but could not the Government in its wisdom conceive of some great gesture, some great scheme which would perhaps help it to win over the people. They have not got such imagination—unless they as much afraid of imagination as the Hon'ble Minister for Local Self-Government—to find out something which would strike the imagination of the people, if they have not, I must say that statesmanship is bankrupt and then, mere repression will not do. That is the only thing I would like to say in answer to Mr. Reid.

Babu JITENDRALAL BANNERJEE: From a technical, legal, and merely formalistic point of view, I am afraid that Dr. Sen Gupta's argument is incontrovertible, viz., that sitting here in this Council we cannot take legislative and judicial notice of the fact that the reforms are coming from such and such a date or whether they are coming at all or not. But similarly the Universe itself may cease to exist, this earth of ours may come in collision with some wondering comet, and the necessity for all legislation may disappear. But just forgetting for one moment that we are legislators, and remembering that we are men of commonsense, let us take notice of things going on about us. From that point of view, I say that I have considerable sympathy with the amendment moved by Mr. Tamizuddin Khan. So far as the principle of the Bill and the necessity for its application is concerned, I am afraid I differ from many members of this House. Considering the dangerous character of the situation, considering the dangerous condition of the country, I think that Government has made out a clear case for drastic and abnormal legislation. But at the same time I am free to admit that the Bill itself is a dangerous one. It gives enormous powers to the police, the military and the executive, powers which if not exercised with jealous and meticulous care, may lead to a considerable amount of oppression. Again, the Bill, in some of its provisions is a serious infraction of the liberties of people and a

serious encroachment on the rights of property. But, as Mr. Tamizuddin Khan has well pointed out, there is another side of the question. Within the last two years, there has been a quick succession of ghastly outrages in the country. Public opinion has failed to check the perpetration or spread of these crimes; and public opinion having failed, we have no right to assail the Government if that Government proceeds to invest itself with abnormal and drastic powers. But this much being admitted, the question still arises—how long will these powers continue? The duration of the Bill has been limited to a period of something like two years and a half. But why put a mechanical time-limit at all? What right have we, as Mr. Tamizuddin Khan has asked, to tie up the hands of the future Government? The Bill may be necessary in the present abnormal state of things. The present Government, being largely foreign in personnel, in character and in sympathy, may require abnormal powers of administration to cope with the evils of terrorism. But the Swaraj government of the future may not feel any such necessity for this. Therefore, the point I should like to make is this; let the Government of the future decide things for themselves. When six months are over from the inception of the Reforms, the new government—if they think that there is a clear case and necessity for such abnormal legislation—may obtain powers for renewing and continuing the same; and in so doing, they will have the enormous advantage of public opinion in their favour. But on the other hand, if they think that such abnormal powers are not necessary for their purpose, let them not feel that they are shackled by our hasty and precipitate legislation. Leave them free to do just as they like.

Mr. W. H. THOMPSON: This group, the European group, pretends to have commonsense along with Babu Jitendralal Banerjee. We are inclined to look at the question of the duration of the Bill mainly from the utilitarian and commonsense point of view. We do not wish to tie up the hands of the future Government, whatever that Government may be, neither do we wish to have unnecessary repetitions of discussions regarding such legislation as this repeated more often in this House than we can help. We feel that the simplest method of dealing with the duration of the Bill is to make its life coincident with the life of the other Act which we passed two years ago, so that in case the matter comes up again one discussion will cover the whole thing. We do not follow the argument that by giving a definite life to this Bill we tie the hands of the future Government and make it impossible for that future Government or the present Government, in the meantime, to make any sort of gesture, because as we read the Bill and as we read the General Clauses Act, if there is no need for this Chapter I in a particular district in Bengal, Government can at any time withdraw it. We, therefore, consider that the date fixed in the Bill is the most suitable date for its duration.

Mr. NARENDRA KUMAR BASU: I beg to support the amendment moved by my friend Maulvi Tamizuddin Khan. Sir, as Maulvi Tamisuddin Khan and several other speakers have said, it is really a piece of legislation which ought not to go on for one day longer than it is strictly required. Even the European group, with its strong "commensense," will agree with me in thinking that this is a piece of legislation which ought to be detested not only by every Indian who knows what law is but by every Britisher brought up in the traditions of truth and justice. I must say that the character of the proposed law is quite different from what the Hon'ble Mr. Reid said it was when the Bill was introduced. Mr. Reid, if I remember aright, said that by no provision of this Bill would any law-abiding people have anything to fear. I am afraid Mr. Reid did not read the provisions of clauses 3, 4 and 5 and more specially clauses 4 and 5 of this Bill which gives Government power to take possession of properties, both moveable and immoveable without assigning any reason, and Mr. Reid was not at that time in possession of the information from Midnapore which he gave us the other day that all the Hindus in Midnapore are suspected to be in sympathy with the terrorist organisation. When the question of the imposition of a collective fine upon the Hindus of Midnapore came up, a supplementary question was asked and I may remind Mr. Reid, as he pretends to have a very short memory, I would remind him that when a supplementary question was asked by Mr. Roy whether in charging all the Hindu inhabitants of the place, Government had any information that all the Hindus were in sympathy with the terrorists, I think he said, yes. Now that I have recalled the question to his memory, will Mr. Reid now remember it? Well, Sir, we have had an echo of that from a wholly unexpected person though not an unexpected group. Speaking for myself, I thought that Mr. Birkmyre had better sense than to read out from a piece of paper that "everybody who opposes any provision of this Bill is in sympathy with the terrorist movement." I hope I am not doing him any injustice, but my idea is, Sir, that this piece of writing was put into his hands to read. Speaking for myself, Sir, I will not return abuse for abuse and I will not say that a smiling countenance may be a cloak for villainy, nor will I quote Shakespeare and say, "a man may smile and smile, and yet be" not a "villain" but the traducer of a whole nation. Sir, this is a Legislative Council of men who pretend to have some commonsense apart from the commonsense of the European group. This is not a Council of ministerial officers of the Executive Government and therefore we are not willing to sign a blank cheque in favour of an executive which has shown itself absolutely incompetent to deal with the present situation. Sir, we have had instance after instance of the effect of this repressive legislation. Mr. Reid very coolly gets up in the middle of the discussion of a legislative enactment and asks what are your suggestions? This is neither the time nor the occasion to make suggestions.

5-30 p.m.

Sir, as I said the other day, this is neither the time nor the occasion to make the suggestions. On a recent date, perhaps a few weeks ago, I made a suggestion that the proper way to deal with this has not yet been found out by Government. Let them have a conference of officials and non-officials; let them sit together and lay their cards on the table and then ask for the advice of the non-official members. It is no use on an occasion like this asking non-official members whether they have any suggestion on this point. You depend on the true and false information given to you by the police spies. How can you expect non-official members to give a suggestion which may or may not be acceptable to you? What is the use of making any suggestion to them who would not take it. There are none so blind as those who would not see. They refuse to take any suggestion or make any gesture of sympathy. If I remember aright it has been suggested both inside and outside the house that one method is to try and find employment for the people. Mr. Reid's predecessor Mr. Prentice, in one of his speeches in 1931 said so and people inside and outside the house, have repeated the cry but what has the Government done so far. Have they done anything to that end? No. What is the use of saying that we do not make our suggestions. There is in you a distrust of everybody. Therefore it is no use making any suggestions. What is the root cause of this distrust in the minds of the officials. I think it is their own doing. They know that their predecessors who brought to this country the traditions of British justice, mixed freely and frankly with the inhabitants of this country and were revered and loved by all, they never distrusted the people nor asked for these illegal powers. That race has absolutely gone. The present race of Britishers, officials and non-officials, their regenerate descendants absolutely flout the traditions of British justice; they have no concern with the country; they look solely to their own interests; therefore they distrust every one. It is conscience that makes cowards of them all. I submit as the new constitution is coming, this Bill, if it be passed into law, should not last a day more than is absolutely necessary, and certainly not more than six months after the inauguration of the reforms.

The Hon'ble Mr. R. N. REID: In replying to these amendments I will confine myself first to the amendment of Maulvi Tamizuddin Khan which proposes that the Act shall continue in force till six months after the date of the inauguration of the new constitution. I am reluctant to oppose the motion of this member as he has said that he is prepared to support the Bill in general but I do feel that his motion would really rather fetter the new Government. He said he would not like to have the new Government come into being with this

Bill round its neck. In the first place this proposal would fetter it because if his motion is carried it would mean that within six months of its existence the new administration would have to decide whether it should continue with this Act or not. The new administration will have plenty of things to do within the first six months of its existence and I don't think it would care to have to deal with such a very difficult and thorny problem as this—whether it should continue this Act which gives these special powers or not. On the other hand if the terrorist movement still continue it will presumably carry on with the Act. If on the other hand as a result of this Act peace and prosperity comes back to the land this Act would be a dead letter.

The second amendment moved by Mr. Ananda Mohan Poddar is worse because it means that the Act will expire the moment the new Government comes into existence. I think perhaps in view of these new considerations the mover might be inclined to withdraw his amendment.

The motion of Maulvi Tamizuddin Khan was then put and lost.

The motion of Mr. Ananda Mohan Poddar was then put and lost.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I beg to move that in clause 1 (3), line 1, after the word "shall" the following be inserted, namely:—

"come into force if the Governor in Council certifies that the condition of the country on the expiry of Ordinances IX and X of 1932 continues to justify its promulgation and shall."

The other day when the Bill was introduced I requested the Government to give some assurance that the Bill would not be brought into operation without due consideration, and that the Bill would not be brought into operation automatically after the Ordinances expired and I am glad to say that the Hon'ble Member assured the House to some extent that he would do so. In pursuance of that assurance I have brought this motion. As we are aware the world is progressing very rapidly. The order of things is so changing that we do not know where we are and where we shall be. A matter which was never dreamt of 10 years ago has come into existence at the present moment. Even this law was never contemplated 10 years ago, but it has come into existence as a necessity has arisen. The Ordinances will expire in December; so there are two months more to come. It may be that the situation in the country will improve and there may not be any necessity of bringing this Act into operation, or it may go worse. For this reason I would request the Hon'ble Member to give an assurance to the House that the Bill will be operated with due consideration after the expiry of these Ordinances. I have brought this motion even for the sake of the Government though we know that the Government will not bring

this law into operation without due consideration. But if they openly assure the House, it may improve their position and the country will be satisfied.

With these words I commend my motion for the acceptance of the House.

Mr. ANANDA MOHAN PODDAR: I beg to move that in clause 1 (*3*), line 1, after the word "shall" the following be inserted, namely:—

"come into operation after the expiry of Ordinances X and XI of 1932 if the Governor in Council thinks that the condition of the country requires its promulgation at that time and shall."

The Hon'ble Mr. R. N. REID: I should like to assure the movers of this amendment that Government certainly will not extend all the provisions of the Bill, even if it becomes law, without careful consideration and to no other area except where the conditions may be such as to make it necessary to introduce it there. After this assurance I hope the movers will withdraw their motions.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg to leave to withdraw my motion.

The motion was then, by leave of the Council, withdrawn.

Mr. ANANDA MOHAN PODDAR: I also ask for leave to withdraw my motion.

The motion was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that clause 1 stand part of the Bill.

The motion was put and agreed to.

Clause 2.

Mr. PRESIDENT: The question is that clause 2 stand part of the Bill.

Rai Bahadur Dr. HARIDHAN DUTT: I beg to move that after clause 2 (*c*) the following be added, namely:—

"(*d*) 'Officer of Government' means and includes an officer not below the rank of a sub-deputy magistrate or a munsif or a sub-inspector of police and local commanders of military police."

If any member of this Council will kindly look to what appears in section 3 (*f*) of this Bill he will find that there is a proposal that any

officer of Government authorised in this behalf by general or special order of the Local Government may require any person whom on reasonable grounds he suspects to be acting or about to act in a manner prejudicial to the public safety or peace to give an account of his identity and movements, and may arrest and detain him for a period not exceeding twenty-four hours for the purpose of obtaining and verifying his statements. If I have not mistaken my presumption is that anybody who has anything to do with Government and receives annas eight a day as salary for his connection with Government comes under the category of officers of Government. If I am wrong I hope I shall be informed that this is a mistake. An officer of Government may be even a constable; certainly that will be objectionable. I believe, life as it is, if any and every person be invested with this very arbitrary power, that may lead to abuse and to difficulties. So I am suggesting that the definition of 'officers of Government' should be given in section 2. We have defined 'absconders' and we have defined 'scheduled offences' and I am suggesting that 'officer of Government' should be given a definition which would satisfy pubilc opinion. You may entrust the powers if you like to one who is a sub-deputy magistrate or a munsif or a sub-inspector. But if you go below the sub-inspector of police, perhaps head constable and lower down, a constable will come in. I beg to appeal to the Hon'ble Member in charge of this Bill to consider whether that is desirable. However much it should be desirable to extend this clause to reliable persons it should not be forgotten that we ought not to go beyond certain limit. I want this limit to be defined by a definition of the words 'officer of Government' and I hope my proposal will commend itself to the House.

Mr. SHANTI SHEKHARESWAR RAY: I whole-heartedly support the amendment of the Rai Bahadur. Of course I am opposed to the whole Bill but as we have failed in our efforts to throw it out at an earlier date I wish to make it as harmless and agreeable as possible.

5-45 p.m.

I do not know how the Government bring forward such a proposal. For instance, as the clause stands in the Bill, it will be possible for any officer of Government, say a police constable, to arrest any gentleman, who after a good dinner might be loitering in the streets, on the ground that this gentleman was perhaps a bit disorderly, or on the suspicion that he was likely to act in a manner prejudicial to public peace. Sir, I would ask members of the European group to consider the matter very seriously, whether they are inclined to support such delegation of power to 'any' Government officer. Well, Sir, I would like them to discuss the measure, particularly the different clauses, on the assumption that they are not going to be used against a particular community. I do not know whether I shall be in order——

Mr. PRESIDENT: You seem to have your own doubts on the point. You are really straying away from the point at issue, and I think you had better finish your speech.

Mr. SHANTI SHEKHARESWAR RAY: Yes, Sir, I am appealing to them because so far as the powers given in the Ordinance are concerned, Government have used them only against the Hindu community—they have penalised the Hindus of Chittagong and Midnapore—and naturally they as members belonging to a non-Hindu community may think that as the matter does not concern them, they may light-heartedly support any measure.

(A VOICE: Innocent men have nothing to fear.) But, Sir, sometimes innocent men get into the clutches of the law. Can anybody deny that innocent men are sometimes put to great trouble and inconvenience? My point is—please do not think that Government take steps only against Hindus. Take for instance what happened to-day—

Mr. PRESIDENT: We are not discussing that now. The point for consideration is what officers should be entrusted with the duty specified in the clause that has been attacked.

Mr. SHANTI SHEKHARESWAR RAY: I am just showing why I am supporting my friend's amendment.

Mr. PRESIDENT: I am afraid I must draw the attention of the House to the fact that the member is persisting in irrelevance, and I think he should resume his seat.

(The member resumed his seat.)

Mr. S. M. BOSE: Dr. Dutt has already explained the object of his motion and has referred to clause 3 of the Bill. May I also in support of the motion draw attention to clause 13 of the Bill which I think is a most dangerous provision. It in effect says "If any person disobeys or neglects to comply with an order * * *, the authority which made the order * * *, may take or cause to be taken such action as it thinks necessary to give effect thereto." Therefore under clause 13 any authority which can give certain orders is authorised to take any step it thinks fit, whatever such steps may be, to compel obedience to the order. Therefore it is of great importance that the authority which will pass orders under this clause should be a high authority, not as in clause 3 "any officer." I therefore support Dr. Dutt and think that there should be a limit and certain high officers only ought to be entrusted with this power.

The Hon'ble Mr. R. N. REID: Sir, I oppose this amendment which is intended to limit the power of Government in deciding on what officers shall be authorised to carry out certain duties. If this power is limited to the extent that nobody below the rank of a sub-deputy magistrate or a munsiff or a sub-inspector shall take action, then there will be great difficulty in times of emergency. The House should remember that this Bill is dealing with revolutionary activities and with a class of men against whom emergency measures have to be taken and it would not be reasonable to fetter the hands of Government in this matter. Imagine, for instance, a case like the Chittagong Armoury Raid case, which was described by Rai Bahadur Kamini Kumar Das, where we had a number of armed men attacking certain place;—would you wait till somebody of the rank of a sub-deputy magistrate or a munsiff or a sub-inspector could be found to come and arrest people and so on. That is the point. I can assure the House that this clause will not be abused and I think it is really necessary that Government should be in a position to authorise all those officers whom they think fit to exercise the powers that this clause confers, and their hands should not be fettered in this respect.

The motion of Rai Bahadur Dr. Haridhan Dutt was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. S. C.
Choudhury, Maulvi Nural Absar.
Chowdhury, Maulvi Abdul Ghani.
Dutt, Rai Bahadur Dr. Haridhan.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Mookerjee, Mr. Syamaprosad.
Poddar, Mr. Ananda Mohan.
Rai Mahasai, Munindra Deb.
Rout, Babu Nosoni.
Roy, Babu Haribansa.
Roy, Babu Jitendra Nath.
Roy, Babu Satyendra Nath.
Roy Choudhuri, Babu Hem Chandra.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Syed Nausher.
Armstrong, Mr. W. L.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Bannerjee, Babu Jitendralal.
Barma, Rai Sahib Panchanan.
Bhuiyan, Khan Bahadur Maulvi Ahmad Ali.
Bir Uddin, Khan Sahib Maulvi Mohammad.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Burn, Mr. H. M.
Chaudhuri, Khan Bahadur Maulvi Abdul Matin.
Chaudhuri, Khan Bahadur Maulvi Nafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. G.
Das, Rai Bahadur Kamini Kumar.
Ezuddin, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forrester, Mr. J. Campbell.
Ganguli, Rai Bahadur Sushil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdul Karim.
Gilchrist, Mr. R. N.

Guha, Babu Protulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Kerr, Mr. W. J.
Khan, Maulvi Amin-uz-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Lesson, Mr. G. W.
Maguire, Mr. L. T.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Nag, Babu Suk Lal.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Raheem, Mr. A.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray, Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Rose, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 24 and the Noes 64 the motion was lost.

Mr. PRESIDENT: The question is that clause 2 stand part of the Bill.

The motion was put and agreed to.

6 p.m.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

Kazi EMDADUL HOQUE: I move that in clause 3 (*1*), line 1, after the word "Government" the words "not inferior in rank to an inspector of police and who is" be inserted.

Sir, this clause interferes with the personal liberty of an individual, which is a very serious thing. It should not be treated very lightly. I do not know what is in the mind of Government in trying to give every officer of Government power to detain any man for the purpose of getting from him information about his identity and movements. If there are any reasonable grounds for Government to suspect any particular person and if it is necessary that he should be arrested, then this arrest should be made by a responsible person and not by any and every person. But the nature of the clause is such as to include even a chaukidar or any person of a lower rank even, if such there may be. There is a Bengali proverb that if a master asks a menial to produce a recalcitrant man before him, he not only produces him, but does so, lashing him all the way. So, I do not think it just and proper on the part of Government to empower a constable or a chaukidar or a man of their type to arrest a man merely upon his suspicion or whims and detain him for a considerable period in order simply to ascertain his identity

and get information about his movements. A man in the rank of a constable cannot be expected to exercise the same amount of moderation as any man holding a responsible position will do. Therefore, I think this power of arresting a man upon mere suspicion should not be given to any person other than an officer below the rank of an inspector of police. Of course I do not hold a very good opinion of inspector of police, on the contrary, the Police Department is held in contempt by the people at large. Still we can hope that a man of the position of an inspector of police will exercise his discretion more prudently and discreetly than a constable or a chaukidar. For all these reasons, Sir, I have brought this amendment. I hope my amendment will kindly be accepted by the Hon'ble Member.

Mr. P. BANERJI: I beg to move that in clause 3 (*1*), line 1, after the word "Government" the words "not below the rank of a sub-inspector of police" be inserted.

My proposal is a milder one and I have suggested an officer not below the rank of a sub-inspector of police. The Hon'ble the Home Member in opposing a similar motion of Rai Bahadur Dr. Haridhone Dutt has not given us any idea what a Government officer means. The suggestion has been put forward by several members that a Government officer may even include a constable or a chaukidar. That suggestion has not been challenged. Therefore, we take it that a Government officer may also mean a chaukidar as well. Let us think for a moment whether we can lend our support to a measure in which we find individual freedom is proposed to be taken away. Under the British rule though we lost national freedom we have been enjoying individual freedom, but slowly and slowly Government is stealing away that individual freedom which we so long had. By this legislation they are going to take away even this from us. It has also been asked by one eye-witness, Rai Kamini Kumar Das Bahadur that, if somebody comes and gets hold of arms, what will happen? I submit that Government had a lot of officials and military men at their disposal at Chittagong and what was the result against the raid of men who were prepared to die and did what we know in Chittagong?

Mr. PRESIDENT: We are now not discussing the raiders or their ideal. So far as the present amendment is concerned, you need not also discuss the numerical strength of the forces of Government. You are concerned with the "rank" of men to be employed.

Mr. P. BANERJI: I am coming to that. A similar argument has been brought forward by the Home Member in which case you did not object. My submission is that in a similar resolution the Hon'ble the Home Member spoke of munsiffs, military officers or subdivisional officers and like that, and Sir, you did not object to that.

Mr. PRESIDENT: Order, order. What was not objected to?

Mr. P. BANERJI: The Home Member wanted to explain——

Mr. PRESIDENT: Order, order, the Home Member wanted to say, if I am not mistaken, that he would like to employ all his officers for the purpose, irrespective of any rank. You do not want him to employ all his men but only a certain class of men of certain ranks. Why not confine yourself to that?

Mr. P. BANERJI: My submission is this: Any Government officer may come in, because a Government officer has nowhere been defined. For instance, the Hon'ble the Home Member has said that one single person who is a Government officer can arrest a body of persons. My point is that a Government officer should mean an officer not below the rank of a sub-inspector of police. He may be given the power of arresting a person because in a village thana he is the only person who can practically be called a literate person. In this connection, Sir, may I enquire whether I can also move my amendment No. 16 which is analogous to the present one.

Mr. PRESIDENT: Order, order. Please go on with the one you have already moved.

Mr. P. BANERJI: I submit, Sir, that the term Government officer should be explicitly defined, and that is why I suggest that he should be an officer not below the rank of a sub-inspector of police.

Mr. B. C. CHATTERJEE: I am afraid this clause really confines two different functions, both of which should not be entrusted to constables or chaukidars or to officers lower in rank than sub-inspectors of police. In the first place, we have the power given to a Government officer to arrest or to require a man to give information about his identity and movements. So far as this is concerned, if a constable or a village chaukidar thought that some body's movement was suspicious and therefore he considered it necessary to have him under arrest, he would certainly be entitled to do so in order to give effect to the purposes of the Bill; but it is a very dangerous thing to allow a chaukidar or a constable to keep a man in custody for 24 hours. What I would suggest to Government is that the power of detaining a man for 24 hours should be vested in an officer, not below the rank of a sub-inspector of police. Therefore, this section, I submit, requires division into two parts. In the first place, you may give the power of arrest to any police officer whatever his rank may be, and then, if the man is arrested by a person below the rank of a sub-inspector of police,

he should be required forthwith to take the man to an officer not below the rank of a sub-inspector of police and such an officer might be given the power of detaining the arrested man for 24-hours.

6-15 p.m.

It is needless to say that I am against the whole of this section.

Mr. PRESIDENT: Mr. Chatterjee, are you moving an amendment?

Mr. B. C. CHATTERJEE: Sir, I am suggesting an amendment, if I can with your permission, that this clause be divided into two parts and I hope the Hon'ble Home Member will frame it in such a way as to ensure that nobody might arrest or have the power of detention below the rank of a sub-inspector. I am throwing out the suggestion to the Hon'ble Home Member and I hope he will accept it and formulate an amendment to that effect, as otherwise I see great dangers ahead. If a constable or a *chaukidar* or a *dafadar* were empowered to arrest a person and keep him in custody for 24 hours, I am afraid there would be terrible riots and trouble. If the ordinary people were to see a constable or *chaukidar* or *dafadar* marching a *bhadralok* youth to some place of detention and detaining him on his own authority at the place for 24 hours, the consequences might be terrible. In the second place, I must also say that the police in India have not got the same civilised methods of investigating crimes as in other countries; they still follow very very primitive methods. I trust, Government also realise this danger. It is because of this danger that you find that the Evidence Act still retains the section which makes a confession made before a police officer inadmissible in evidence. That section is still retained because it is found that among all departments of the Government the Police Department have not yet improved to the extent that the policemen can be trusted to record confessions honestly and truthfully. It is otherwise in other countries, but unfortunately in this country the police are still far from that state of improvement which we want them to be in. That being so, I am afraid if you allow an officer lower than the rank of a sub-inspector to detain a person for 24 hours, there will be the greatest chance of the arrested man being put to different varieties of torture. Personally, from my long experience, I can testify to the fact that the police do subject people now and then to all sorts of torture, and I could give details of these to the Hon'ble Home Member if he wanted them. Let him see the dangers ahead. In the first place, you authorise a man lower in rank than that of a sub-inspector to get hold of anybody whom he suspects to be a wrong-doer and torture him and so forth. In the second place, there are dangers of irruptions taking place all over the country whenever a young *bhadralok* is found being taken by a policeman of a lower rank than a sub-inspector to some place or [illegible]

detained for 24 hours. I do appeal to the Home Member with the fullest sense of responsibility to see that this Bill makes a distinction between the class of people who are authorised to arrest and the class of people who are authorised to detain a person for 24 hours for the purposes enumerated in this section. So I would ask the Government to move an amendment to this effect.

Khan Bahadur MAULVI AZIZUL HAQUE: Sir, I am afraid that there has been some misunderstanding in regard to this section. Perhaps my friend, Mr. Chatterjee, has not realised that how this power of arrest will be exercised and it is quite possible that he has forgotten to see section 17 (*iv*). Clause (*l*) (*g*) of this section says:—

"The Local Government, subject to the control of the Governor General in Council, may by notification in the *Calcutta Gazette* make rules generally to carry out the purposes of this chapter."

Therefore, Sir, I do not expect that the local Government will make such a rule as will entitle a constable to detain an arrested person for a long time. After all, the constable must detain a person at a police-station and there must be some rules governing such detention. There is a provision, viz: 17 (*d*), under which the local Government may make rules regulating the exercise of powers conferred by or under this chapter. Therefore, Sir, all these matters will be regulated by rules which will be framed for the purpose. Much has been said about a chaukidar or a dafadar arresting a person and detaining him in custody for 24 hours. It must however be remembered that chaukidars and dafadars are not police officers; they are only village officers under the union boards and they are paid by the union boards. Although they have certain powers, it should not be supposed that they can do as they please. It was because we, in the Select Committee, realised the danger of giving unrestricted powers that we thought it necessary to carefully guard the language by saying that the suspicion must be based on "reasonable" grounds and the Select Committee added the phrase "on reasonable grounds." In other words, it should not be possible for any constable or any officer to suspect anybody and to question anybody he likes but that his suspicion must be based on reasonable grounds.

Under the Criminal Procedure Code, even now certain powers are reserved to a certain class of persons. I submit, Sir, that this is an emergency measure and I fully agree that in an emergency we must try to minimise the evils as much as possible; at the same time we must not lose sight of the fact that it is a measure designed to deal with the terrorists. In a remote village where will you find a sub-inspector and if you put in the provision, the Act will be inoperative, because the moment we, in the legislature, require that the officer

must be of the rank of a sub-inspector or an inspector the position becomes complicated. I take for instance what would happen in a district like Chittagong where there are only about 29 sub-inspectors scattered over the whole district; it would not be possible to deal with people who are supposed to come under this section if the arrest be confined to sub-inspectors. It must be remembered that this power will only be exercised under certain rules to be framed for the purpose. So far as section 3 is concerned, I would remind the House that it would not be possible in the course of a search of a locality to employ a large number of officers of the rank of sub-inspector. I think my friends will have noticed in the daily press that recently in London they had to employ about one thousand police men to search every motor car that passed London for motor bandits. If it is found that certain terrorists are hiding in any locality, it may be necessary to question people in that locality on suspicion and if the matter be left to sub-inspectors, then the whole thing becomes meaningless. That is why I, personally, think that where there is reservation of power, that power should be exercised only on reasonable grounds and subject to such rules as may be framed for the purpose. In that view of the matter, the Select Committee accepted the addition of the words "on reasonable grounds."

Mr. NARENDRA KUMAR BASU: Sir, I am afraid my friend, Khan Bahadur Maulvi Azizul Huque, is absolutely mistaken when he feels that the matter may be left to the Local Government. Perhaps, Sir, his knowledge of the Local Government is more spacious than his knowledge of the Criminal Procedure Code. Under the Criminal Procedure Code, a police officer may in some cases arrest without a warrant; and under section 55, an officer in charge of a police-station may arrest or cause to be arrested any person who cannot give a satisfactory account of himself. When, therefore, the Khan Bahadur says that there is a safeguard provided in the Criminal Procedure Code, he is probably forgetting for the moment the provisions of section 55. The provisions of the Code under which other officers may arrest persons are not so drastic as the measure before us and as the Khan Bahadur asks us to imagine. Moreover, in every such case an officer arresting a person has to produce the arrested person without delay before an officer in charge of the police-station. I do not agree with the other argument of the Khan Bahadur that this section contemplates a general round-up of terrorists or motor bandits or something like that. I do not think it is an well-founded idea. This sub-clause says: "Any officer of Government authorised in this behalf by general or special order of the Local Government may require any person whom *on reasonable grounds* he suspects to be acting or about to act in a manner prejudicial to the public safety or peace to given an account

of his identity and movements, and may arrest and detain him for a period not exceeding 24 hours." I think when a general round-up or a search is ordered, there will be at least some responsible officer at the head of the patry and that such a round-up or search will not be conducted by village chaukidars or daffadars, and constables alone. As I have said, I do not think that the Khan Bahadur is right in believing that section 3 contemplates any general round-up. Sir, what will generally take place will be that when a police officer going about his duties sees a person who cannot give a satisfactory account of himself or his movements, the police officer may arrest such person "on reasonable grounds;" in that case the sole judge of the reasonableness of the grounds of arrest will be the officer who makes the arrest. For instance, a constable might tell a young man: "Look here, can you give a satisfactory account of yourself? If not, I will arrest you and keep you in custody for 24 hours." This, I do think, is a very dangerous provision; and I hope that such further provision should be made as would lay down that the officer making the arrest must not be below the rank of sub-inspector of police and that the person arrested should be forthwith produced before the nearest police officer in charge of a thana; such a provision would be some palliation of the grave character of the measure.

Dr. NARESH CHANDRA SEN GUPTA: Sir, this clause reminds me of an incident of which I happened to be a witness in which in the absence of a clause like this a police sergeant was put somewhat to devious devices. A man who had been selling him curd (*dahi*) for some time went to his house and asked for the price. This enraged the police officer and after some altercation he arrested him and sent him in charge of his orderly to the thana. There was some difficulty created by the fact that I intervened, and the result was that after about a month or so, the police sergeant was asked to say why he did not make any entry in the police diary in regard to that, and why he had not charged the man with an offence, and then the police sergeant could think of nothing else except an offence under the Police Act of committing a nuisance in a public place. This section would have come very handy to him. He could have simply said, "Can you account for your movements? I have reasonable grounds for believing that you cannot. Therefore, I arrest you and place you in *hajat* for 24 hours." Khan Bahadur Azizul Haque places much reliance in this——

[At 6-30 p.m. the Council was adjourned for prayer and it reassembled at 6-40 p.m.]

Dr. NARESH CHANDRA SEN GUPTA: Khan Bahadur Azizul Haque places much stress upon two little expressions in the Bill, one

of which has been added by the Select Committee, that the arrest must be on reasonable grounds. Well, what, if it is not on reasonable grounds? Who is going to judge whether it is on reasonable grounds? Suppose the policeman acts without reasonable grounds? What are the chances of a man entrusted with the working of this Act being made answerable for his action? Well, past experience has shown that he won't be answerable. Then the other point which he has made is that under clause 17 (*d*), the Local Government has got power to make rules to regulate the exercise of powers conferred by or under this Chapter. The Khan Bahadur asked us to believe, certainly with a great deal of justice, Government must make rules so as to make the abuse of powers impossible. It strikes me that in that view we might have a short amendment in place of all the clauses of the Bill and that is to give power to the Government to make such rules, as it thinks fit, to deal with the terrorist movement, and delete all the clauses of the Bill. That will be just as well. Well, a legislature cannot delegate all its functions to the executive authority in that way. If we are to function as a legislature, if the Khan Bahadur is really in earnest in his desire that these arrests should be safe-guarded, there is no reason why he should not accept this amendment. For myself, I do not think much of the amendment; even with the amendment, the section will be quite as bad, and in this connection I may draw your attention to one other fact. An officer of Government, whoever he is, has got enormous powers of arrest and detention for a period not exceeding 24 hours and more than that, and under sub-clause (*2*), an officer making an arrest under this section may in so doing use *any means* that may be necessary to effect arrest. The Select Committee have added "to effect the arrest" which is absolutely unnecessary. However, Sir, it would be interesting to enquire if it includes any means, however, illegal that may be necessary to secure the arrest. Suppose a man's movements are suspected by a particular officer who is so authorised. He follows the man and the man goes into hiding. Will that officer be authorised by this sub-clause (*2*) to set fire to the house of that man in order to bring him out? Would he be justified in maltreating his wife and children in order to bring him out of hiding? There is nothing in this clause to prevent him from doing so, so long as it is necessary to bring him out of hiding and to effect his arrest. These are the powers that you are giving to the police, and considering these powers, I think the amendment proposed is too modest. I would not trust even a sub-inspector of police with powers under this sub-clause (*2*). I would hardly trust even higher police officers. Therefore, I do not think that any purpose will be served by this amendment, and I do not see any sense in the argument in opposition.

Dr. AMULYA RATAN GHOSE: I beg to support the amendment and I want to make a single observation which has not yet been made by any of the speakers and that the provision of the clause which is "Any officer of Government . . . may require . . . any person whom on reasonable grounds he suspects to be acting or about to act in a manner prejudicial to the public safety or peace to give an account of his identity and movements, and may arrest and detain him for a period not exceeding twenty-four hours for the purpose of obtaining and verifying his statements." Sir, this point has already been dealt with very efficiently by Mr. Chatterjee, and I must say that that danger will be increased hundred times more if the suspect is a person of the female sex. That will be a very undesirable thing if these policemen of lower ranks are given the power to arrest and detain women for 24 hours. That will excite the minds of the people far more than in the case of men of the *bhadralog* class, and I think there ought not to be such provision in this Act; that is why I say, Sir, that this thing should be considered very cautiously by the Government.

The Hon'ble Mr. R. N. REID: In opposing this amendment, I would simply say that most of these arguments against this section I have already stated in dealing with amendment No. 9. As Khan Bahadur Azizul Haque has pointed out, this is an emergency measure dealing with a special and dangerous situation, and experience has shown that Government will be unwise to allow their powers to be limited under this clause, as to the officers whom they will authorise to exercise these particular powers. In practice, up to now, this particular power under section 3 has not been conferred upon any one below the rank of head-constable.

Then as regards this question of detention which has exercised the minds of many members, there again, I think I can assure the House that certainly if it was necessary to utilise this clause on a large scale, rules would be made under the rule-making section or under the ordinary executive powers of Government which would enjoin that a police officer of an inferior rank will have at the earliest possible moment to take any prisoner he has so arrested to his superior officer. I would also add that the Select Committee considered this clause very carefully and they agreed to it in view of the gravity of the situation, and it should be remembered also that the provisions of this Bill are to be applied only in particular areas where the situation requires it and not everywhere.

I beg to oppose the amendment.

The motion of Kazi Emdadul Hoque was then put and lost.

The motion of Mr. P. Banerji was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Choudhury, Maulvi Nural Absar.
Dutt, Rai Bahadur Dr. Haridhan.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Mookerjee, Mr. Syamaprosad.
Poddar, Mr. Ananda Mohan.
Roy, Babu Haribansa.
Roy, Babu Satyendra Nath.
Samad, Maulvi Abdus.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Burn, Mr. H. H.
Chaudhuri, Khan Bahadur Maulvi Nafzur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. G.
Das, Rai Bahadur Kamini Kumar.
Eusufji, Maulvi Mur Rahman Khan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forrester, Mr. J. Campbell.
Ganguli, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hossain, Maulvi Muhammad.
Kerr, Mr. W. J.
Khan, Maulvi Amin-ul-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Leeson, Mr. G. W.
Maguire, Mr. L. T.
McCluskie, Mr. S. T.
Mitter, the Hon'ble Sir Provash Chander.
Momin, Khan Bahadur Muhammad Abdul.
Nag, Reverend S. A.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. N. C. V.
Rahman, Mr. A. F. M. Abdur-.
Rai Mahasai, Munindra Deb.
Roy, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. S. R.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 16 and the Noes 60, the motion was lost.

7 p.m.

Maulvi ABDUS SAMAD: I beg to move that in clause 3(*1*), lines 3 and 4, for the words "whom on reasonable grounds he suspects to be acting or about" the words "found acting or preparing" be substituted.

In considering this amendment as well as the other amendments that follow, the hon'ble members shall have to bear in mind that the

Government is seeking to enact into law the provisions of the ordinances which had to be promulgated as emergency measures to cope with and put down anarchical crimes. It cannot be denied that the ordinances, the Criminal Law Amendment Act and other repressive measures have failed to produce the desired effect and it is beyond our comprehension how the proposed measure is expected to achieve better result unless the powers conferred by the new Act are enforced in utter disregard of all laws of God and humanity, i.e., unless all persons holding advance political views—however loyal otherwise they may be—are put under arrest under clause 3 and their properties, both moveable and immoveable, are confiscated under clauses 5 and 4, respectively, of the Act.

The clause 3, as it stands, empowers the officer specially authorised in this behalf by the Local Government to arrest and detain any person who is suspected to be acting or about to act in a manner prejudicial to the public safety. The addition of the word "reasonable" by the Select Committee has not improved the matter and is a mere surplusage as there is nothing in the Bill by which the reasonableness or otherwise of the suspicion can either be tested or questioned. If the officer says that his suspicion is reasonable that is enough.

Sir, the terms of clause 3 are so wide as to empower the officer to arrest and detain persons holding advanced political views, though in no way connected with any anarchical movement. Only the other day in the debate that followed the introduction of this Bill, some of the European members openly charged even the moderate Hindu leaders, including the honourable members of this House, with having sympathy for the political murderers. The implication is that this sympathy is partly responsible for the continuance of the political crimes as it tends to encourage the terrorists in committing these nefarious acts and that but for this secret sympathy the movement would have died a natural death. So, according to this view all persons holding advanced political views may come within the purview of this clause and would thus be liable to be arrested, detained and otherwise dealt with by this Act.

For this the Hon'ble Home Member would probably say that the powers conferred by this Act would be exercised with great caution and care and that the innocent persons would have nothing to fear. If that be the intention of the Government then I think he can have no reasonable objection to accept my amendment which is intended to bring only those persons within the purview of this clause who are found doing or preparing to do some overt act which may raise a reasonable suspicion in the mind of the officer.

With these words I commend by amendment for the acceptance of the House.

The Hon'ble Mr. R. N. REID: I beg to oppose the motion. The sole intention of this section is to use it as a preventive measure. If the officer of Government authorised in this behalf is restricted in his action in detaining the persons to those only whom he finds to be acting or preparing to act in a manner prejudicial to the public safety, his power is so restricted that it will be useless. The point is when dealing with an emergent case or when dealing with a dangerous revolutionary conspiracy this clause empowers an officer of Government to arrest and detain for a short period the person who has acted in a suspicious manner and at a time when he may be supposed to be doing a dangerous thing and thus to anticipate him. If the power of the officer of Government under this section is restricted only to arrest a person who is actually doing something in furtherance of a revolutionary conspiracy, then the use he can make of his powers will be small indeed. So Government are unable to accept the amendment which will restrict the powers of the officers of Government within this very narrow compass. I beg to oppose this motion.

The motion of Maulvi Abdus Samad was then put and lost.

Maulvi TAMIZUDDIN KHAN: I beg to move that in clause 3(*1*), line 4, after the word "grounds" the words "to be recorded in writing" be inserted.

My purpose is that the man suspected should have some safeguard. My amendment, if carried, will give superior officers an opportunity to judge whether subordinate officers do in fact take action on reasonable grounds. I think this amendment will be accepted.

Mr. P. BANERJI: I beg to move that after clause 3(*1*), the following be inserted, namely:—

"Provided that the grounds for arrest be given in writing to the person arrested and a copy thereof shall be sent to the nearest District Magistrate within two hours of the arrest."

The object of my motion is that it often happens that persons are arrested and detained for a longer period than 24 hours as required by this section and they are, as has been suggested by several speakers, subjected to a certain amount of torture by the police. In order to protect him from being tortured by the police, which is usual, I suggest that as soon as a person is arrested a notice must be sent to the District Magistrate within two hours saying that the person has been arrested only that morning in order to prevent and to save persons from being tortured by the police. I hope the Hon'ble Member will accept my motion.

Mr. C. C. COOPER: Is the hon'ble member in order in making the charges which are made in his speech? Can he substantiate his charge against the police?

Mr. PRESIDENT: I do not see the point at all. He is merely ventilating his own opinion.

Babu HEM CHANDRA ROY CHOUDHURI: I beg to move that after clause 3(*1*) the following be inserted, namely:—

"(*1a*) An officer making an arrest under this section shall have to send a report in writing to the District Magistrate or the subdivisional officer within twenty-four hours of the arrest stating the grounds of his suspicion."

The clause, as it is framed, contemplates to empower any officer of Government either of superior or inferior rank with the powers of arrest and detention for 24 hours. It is an admitted fact that this measure is a very drastic one. Reasonings of a constable who may be empowered under this clause, cannot be of the same character as that of a Superintendent of Police. Hence there must be a check against the misuse of such a power. Most of these officers of lower rank are local men and it cannot be expected that all of them will be above party faction or it may so happen that some of them may have some quarrel or some grudge against some of their neighbours and they may take advantages of the provisions in this Bill to feed fat their grudge. To check all these, I propose that the officer should be required to make a report and send it to the District Magistrate or subdivisional officer who will have an opportunity to examine whether the arrest or detention was a *bona fide* one.

7-15 p.m.

Sir, Maulvi Tamizuddin Khan wanted that the grounds should be recorded in writing but he does not suggest when those grounds will have to be recorded and where the records are to be maintained. Hence I propose that the report should be sent to the District Magistrate or to the subdivisional officer who will keep it as a record and who will have an opportunity of examining it. The difference between Mr. P. Banerji's amendment and mine is that Mr. Banerji requires two hours while I suggest that it should be 24 hours and the reason for this is this, that the officer who may be empowered to exercise this power may be an illiterate one. He may have to get the grounds recorded by somebody else or it may so happen that the place where an arrest is made may be at some distance from the nearest post office or he may not get a suitable man to send the report to the District Magistrate or the subdivisional officer. I, therefore, propose a longer period so that the officer may not be inconvenienced in sending the report. If there be no such safeguard there is every chance of this power being abused.

Kazi EMDADUL HOQUE: I beg to move that after clause 3 (*1*), the following be inserted, namely:—

"(*1a*) The officer making the arrest shall submit a report to the nearest Magistrate within twelve hours of arrest."

Sir, in view of clause 3 (*1*) I think "any officer" includes a *chaukidar* or a constable. I think we should not give such men a handling over the unfortunate creatures who will be their victims. Of course it will be said that they will be arrested on reasonable grounds but these men of the lowest rank—*chaukidars* and constables—are not in a mood to use their discretion and may make indiscriminate arrest of innocent men. So these persons should not be given a handling over the unfortunate creatures who will be their victims for the time being. Then, Sir, I think even 12 hours will be a sufficiently long time for completing an inquiry under clause 3 (*1*)—an inquiry which is nothing more than that of a formal nature, namely, the man's whereabouts, the reason which has brought him at the place of arrest and things like these. In order to ascertain these simple facts it is not at all likely that more than 12 hours will be needed; but then it may be necessary to have more than 12 hours to finish the inquiry as contemplated in clause 3 (*1*) if illiterate officers and officers without any education are empowered to make the arrest. They will find a long time necessary in order to send the report, and that is the reason why the other movers proposed 24 hours' detention. I think if for 24 hours people are kept in their custody then untold torture will be exercised on these poor creatures so where they cannot finish the inquiry within 12 hours, which I think is a pretty long time, then they must send a report to the nearest Magistrate as to the progress they have made up to the time; so that the public may know the grounds of the arrest and the reason why the inquiry has been so much delayed. For these reasons, Sir, I think that if the inquiry be not completed within 12 hours from the time of arrest, the inquiring officer or the officer making the arrest shall submit a report to the nearest Magistrate stating the progress of the inquiry. With these few words I commend my motion for the acceptance of the House.

Mr. J. CAMPBELL FORRESTER: May I know Sir, what he meant by "untold torture"?

Kazi EMDADUL HOQUE: I am astonished to hear that Mr. Campbell Forrester pretends not to know how the people are tortured by the police when they get them under their clutches. If he only care to trace a man when he is arrested and taken to the thana and who proves a little bit unsubmissive he will himself be convinced of the truth that I have asserted.

Dr. SYAMAPROSAD MOOKERJEE: Sir, the previous speakers—the movers of the amendments—have based their arguments on the ground that such a clause is necessary in the interest of the accused persons—in the interest of the persons detained. I would support the amendments on another ground, namely, that such a provision is necessary in the interest of the Government itself. Now, Sir, what does this clause suggest? I am referring to Maulvi Tamizuddin Khan's amendment. It suggests that an officer of Government who will arrest a man will record in writing the reasons for such arrest. He does not even suggest that such documents will be handed over to the persons concerned. The reason why I say that it is in the interest of Government that such a provision should be there, is that the clause does not merely contemplate giving power to an officer to detain a person for 24 hours but that such officer may under sub-clause (2) use any means to effect the arrest. Then, Sir, clause 13 goes further; it says that any officer if he finds a particular person disobeying or neglecting to comply with his order, may take or cause to be taken such action as he thinks necessary to give effect to his orders. These are very large and indefinite powers given to an officer. The Hon'ble Member says that there is an emergency and such power ought to be given. The amendment is a modest one. It simply says that the reasons for such arrest shall be recorded in writing. If afterwards a charge is brought forward that the arrest was made on insufficient ground, how can the Hon'ble Member judge whether the officer had sufficient grounds or not for making the arrest. This statement in writing will enable him to decide whether the officer acted properly or not. Maulvi Tamizuddin Khan's amendment does not fetter the discretion of Government but simply provides for a very salutary safeguard.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I wish to point out only this, that although so much has been said on this amendment, what the honourable members are pressing for are nothing revolutionary. Under the law in practice at the present moment every police officer has got to keep a diary and when any arrest is made it has got to be recorded in the diary and a carbon copy of that diary is made and the diary forthwith sent to his superior officer. Well, it is simply reproducing that provision here. You do not prevent the officer from acting in an emergency with promptness. He may record the thing at his leisure and sent to the nearest Magistrate: that is exactly what is done now and that is what this amendment asks for. I do not think, however, that this will prevent persons from being wrongly arrested and detained. I know of cases in which the salutary provision of the Criminal Procedure Code not to detain a person for more than 24 hours has been got round by police officers. In one case a police sub-inspector did not arrest a man but simply kept him

with himself and this man had to follow the sub-inspector wherever he went; and this was done for three days and at the end of that he was arrested and then let go. There are ways in which this provision of law can be evaded. Therefore I do not think that this will prevent people being wrongly arrested.

The Hon'ble Mr. R. N. REID: Sir, I am afraid that I must oppose these motions, and again I shall have to advance the argument that this is an emergency measure and I think what I said about a rule being issued that any one below a certain rank who arrests a person under section 3, will have to report to his superior, really meets this difficulty. Every officer thus taking his arrested person to his superior officer would naturally and in ordinary course report as to what he did and so on. I do not think that it is either reasonable or practicable, in the circumstances which I visualise, to insist that in all these cases the reasons should be recorded in writing. This is not possible in all circumstances, I think, and on this ground it is impossible for me to accept this amendment.

I just wish to add one thing before I sit down. I desire to repudiate the suggestion which was made by Mr. Banerji and which he was careful to repeat twice that torture was the usual thing with the police. I deny that utterly (Hear, hear). With these words I oppose all the motions.

The motions of Maulvi Tamizuddin Khan, Mr. P. Banerji, Babu Hem Chandra Roy Choudhuri and Kazi Emdadul Hoque were then separately put and lost.

Adjournment.

The Council was then adjourned till 2-30 p.m., on Monday, the 5th September, 1932, at the Council House, Calcutta.

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President, Mr. (the Hon'ble Raja Sir Manmatha Nath Ray Chaudhuri, Kt., of Santosh)

Observation by- that, claiming a division on a matter of principle in the first instance, and then withdrawing it at the second opportunity, constituted a lame excuse for wasting the time of the Council : 44.

Ruling by that points of dispute over a compromise arrived at outside the Council Chamber Could not be raised on the floor of the House : 66.

Observation by in answer to a point of order of Mr. W. H. Thompson, that a member was advancing arguments which seemed to refer to a matter just then decided by the House that a member was in order so long as his arguments, old or new, were relevant to the amendment then before the House : 80.

Observation by- that in certain cases speeches in support of a Government amendment were not necessary unless they threw any new light upon the matter or advanced any new argument in respect thereof : 84.

Observation by that a controversy over grammar cannot be made a subject for a point of order : 142.

Observation by that the chair possesses the power of allowing an amendment to be moved at short notice or even without notice : 151.

Ruling by that it was not open to any member of the House to criticise the conduct of the Hon'ble Minister for Local Self-Government with reference to the action taken by him in connection with the Education Committee of the Calcutta Corporation, or to cast aspersions on him with reference to a matter which was not before the House : 196.

'resident, Mr. (the Hon'ble Raja Sir Manmatha Nath Ray Chaudhuri, Kt., of Santosh)—*contd.*

Observation by—that although he had allowed members and also the Hon'ble Minister for Local Self-Government to move amendments at short notice, or even without notice, so that the Bengal Municipal Bill might be as faultless as possible, yet it would not be fair on his part to allow such amendments to be moved by any one unless were backed by an important party, or by the Hon'ble Minister: 198.

Consent by to postpone, at the request of the Local Self-Government Minister, the consideration of a clause of the Bengal Municipal Bill, for some time in order to allow of examination of the implications of a short notice amendment: 211.

Observation by—that discussion of an amendment should not be put off unless the Hon'ble Minister in charge of a Bill agrees to do so: 247.

Observation by—in reply to a point of order raised by Mr. Narendra Kumar Basu, that the List of Business is not unalterable, and that when there is a lull in the consideration of a Bill, the Chair could direct that other business should be taken up in the interregum: 268.

Ruling by—that a member is well within his rights in voicing what he thinks to be public opinion in connection with a motion for circulation of a Bill for eliciting public opinion thereon, and that the principles of a Bill may also be discussed in that connection: 275.

Observation by—on a point of information raised by Mr. Jitendralal Banerjee, that it was His Excellency's prerogative under a definite section of the Government of India Act, to declare a seat vacant under certain circumstances and that discussion on that matter was not open to the Council: 328, 329.

Observations by about the duties of a Member of the Council (in reply to a request for information made by Mr. J. L. Banerjee): 329-330.

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Ruling by—that when a Bill has been taken into consideration, and amendments are being dealt with, remarks of members should be confined to the amendments and a general discussion was not permitted: 342.

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Appointment of members of backward classes to district offices in Bengal : (Q.) 15-18.

Appointment of assistant and sub-assistant surgeons from depressed classes : (Q.) 189, 190.

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Bengal Suppression of Terrorist Outrages, 1932 : 360-361.

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